

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA .
vs. . H-10-CR-368
. HOUSTON, TEXAS
. NOVEMBER 9, 2011
. 10:19 A.M.
BARRY WALTER BUJOL, JR. .
.

TRANSCRIPT OF BENCH TRIAL
BEFORE THE HONORABLE DAVID HITTNER
UNITED STATES DISTRICT JUDGE
VOLUME 3

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General Order 94-15, United States District Court,
Southern District of Texas.

A P P E A R A N C E S:

FOR THE GOVERNMENT:

Stephen Mark McIntyre
Craig M. Feazel
Assistant US Attorney
P O Box 61129
Houston, TX 77208

Garrett M. Heenan
United States Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

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produced by computer-aided transcription.

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1 A P P E A R A N C E S: (Continued)

2 STANDBY COUNSEL FOR THE DEFENDANT PRO SE:

3 Edward A. Mallett
4 Mallett & Saper, L.L.P.
5 600 Travis
Suite 1900
Houston, TX 77002-2911

6 OFFICIAL COURT REPORTER:

7 Cheryll K. Barron, CSR, CM, FCRR
8 U.S. District Court
515 Rusk Street
Houston, TX 77002

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10:19 1 P R O C E E D I N G S

2 THE COURT: You can turn the light off if you want,
3 whatever you want, whatever is easiest for him.

4 THE COURT: All right. Go right ahead.

10:21 5 MR. FEAZEL: Thank you, your Honor.

6 **MOHAMMAD ALDWSARI, GOVERNMENT'S WITNESS, TESTIFIED:**

7 **DIRECT EXAMINATION**

8 BY MR. FEAZEL:

9 Q. Good morning. How are you, sir?

10:21 10 A. Good.

11 Q. You're the same Mohammad Aldwsari that testified under oath
12 yesterday?

13 A. Yes, I am.

14 Q. Okay. I believe yesterday we had talked about when we left
10:21 15 off the defendant's use of misinformation and how he's okay
16 with misinformation to further his goals. Is that correct?

17 A. Yes.

18 Q. And we are going right into a clip that we played from a
19 meeting of April 9th. And this is 56-5. And at this time we
10:21 20 would like to publish 56-5.

21 *(Tape playing)*

22 THE COURT: Counsel, can you step back just a little?
23 That's fine.

24 MR. FEAZEL: We can start that over again?

10:22 25 THE COURT: You either can stand here or -- just as

1 long as I can have a view of the screen.

2 MR. FEAZEL: Yes, sir.

3 *(Tape playing)*

4 MR. FEAZEL: If we can pause it?

5 BY MR. FEAZEL:

6 Q. Okay. Can you explain to the judge what you're talking
7 with the defendant about here?

8 A. I was talking to him that he's going to join the best of
9 the best, al-Qaeda in the Arabian Peninsula; but I said it in
10 Arabic which is "al-Qaeda fi Jazirat al-'Arab," which he
11 understood as "al-Qaeda in the Arabian Peninsula."

12 Q. And when you told him this, did he seem concerned?

13 A. No. He was happy.

14 Q. In fact, what does he say when you tell him he's going to
15 join al-Qaeda in the Arabian Peninsula?

16 A. "God willing. God willing." "Hamdulillah."

17 THE COURT: And in your tradition, does that mean
18 assent, "yes" or "I'm pleased" or "that's good"? What --

19 THE WITNESS: It means he's -- yeah, it means you're
20 accepting and you're pleased. Because if you're not pleased,
21 you can just open the door and get out.

22 THE COURT: Okay. Well, but, in other words, in your
23 culture, that means, what you said, "Yes, that's good"?

24 THE WITNESS: Yes.

25 THE COURT: You know, and no dissent?

1 THE WITNESS: Yeah, "I'm with you 100 percent" when
2 you say that, yeah.

3 THE COURT: Gotcha. Go ahead.

4 MR. FEAZEL: Okay. We can continue playing.

5 *(Tape playing)*

6 BY MR. FEAZEL:

7 Q. All right. Real quickly, after you told him again
8 "al-Qaeda in the Arabian Peninsula," what was it that you-all
9 talked about?

10 A. We had a discussions about the drones.

11 Q. And when he mentions "elephants," again, those are the
12 drones?

13 A. Yes, sir.

14 Q. What is he talking about when he mentions "riders"?

15 A. The pilots.

16 Q. Okay. In this video, we hear mentioned to him for the
17 first time that you were sent by al-Qaeda to the United States
18 to attack the drones and military personnel. Is that right?

19 A. Yes, sir.

20 Q. And when you told him that, what was his response?

21 A. "Hamdulillah." He was pleased.

22 Q. When you say "hamdulillah," what does that mean?

23 A. "Praise God."

24 Q. Did he ever look distressed?

25 A. No.

10:31 1 Q. Did he ever say, "I don't want a part of this, I want to
2 get out of the car"?

3 A. No.

4 Q. In fact, he says he's ready to go tomorrow?

10:32 5 A. Yes, he did.

6 Q. Okay. Another thing that I want to talk about is he
7 mentioned that he's looking to help you after you mention that
8 your objective is to attack military drone bases. How does he
9 talk about how he can help you?

10:32 10 A. He's going to try to look some -- for more manuals on the
11 Internet and send them to me.

12 Q. When you say "manuals," what kind of manuals do you mean?

13 A. Military manuals.

14 Q. Let me show you Exhibit 195.

10:32 15 THE COURT: Before I forget, what was this exhibit?
16 The transcript of this tape is what? What's the exhibit
17 number?

18 MR. FEAZEL: That's April 9th.

19 THE COURT: April 9th, what year?

10:32 20 MR. FEAZEL: 2009.

21 THE COURT: And what's the number of it? Just like
22 you gave me the number of the other one.

23 In other words, if we have -- after this
24 testimony is over, if I want to see some of the evidence, where
10:32 25 do I look, what number?

1 MR. FEAZEL: It's Exhibit 295 on the video. We're
2 finding the transcript for you right now.

3 Hold on. We'll get you the index, your Honor.

4 THE COURT: Okay. Just someone find that out, the --
5 just like the other one was what? 317 or something?

6 MR. FEAZEL: Right. We'll get Sean on that.

7 THE COURT: Okay. Thanks. Let's just before --
8 before you get -- at your convenience. Just let us know.

9 MR. FEAZEL: May I proceed, your Honor?

10 THE COURT: Yeah.

11 Now, is this another tape?

12 MR. FEAZEL: No. This is going to be a photograph.

13 THE COURT: Going to be photograph. Okay.

14 MR. FEAZEL: And at this time I would like to publish
15 195.

16 BY MR. FEAZEL:

17 Q. All right. You can explain to the judge what is going on
18 in this photo?

19 A. That is me and the defendants checking the trunk of his
20 cars, making sure that he had everything in place, like the
21 stuff that he needs to carry with him to travel overseas to
22 join al-Qaeda in the Arabian Peninsula.

23 Q. So, you're looking at the personal effects he chose to
24 bring on this trip?

25 A. Yes, sir.

10:34

1 Q. What kind of stuff did you see in the trunk?

2 A. I think his -- some clothes, shoes, and a bag. That's what
3 I remember.

4 Q. Okay. Let me show you Exhibit Number 202. Do you remember
5 what Exhibit 202 is?

6 A. Yes, sir.

7 Q. And is this the "Desert Operations" military manual from
8 the United States Marine Corps?

9 A. Yes, sir.

10:34

10 Q. Was this sent by the defendant in an e-mail attachment to
11 you?

12 A. Yes, sir.

13 Q. Let me show you Exhibit Number 203. This is an e-mail from
14 Pat Lex, that is PatLex19@Yahoo.com. Whose e-mail address is
15 that?

10:34

16 A. The defendant.

17 Q. And can you -- okay. I'm going to read this. It says --
18 well, I'll let you read it.

19 Could you please read the e-mail?

10:35

20 A. "Kayfa haluk? Alhamdulillah. I think I got something you
21 may be interested in know for good health. Check these links
22 out."

23 Q. Okay. He brings two links on here, on the e-mail. Is that
24 correct?

10:35

25 A. Yes, sir.

10:35

1 Q. What does he say below that?

2 A. "Allahu alim," God knows, "maybe or not. I just picked up
3 on what you mentioned and started searching" for the -- "from
4 there."

10:35

5 Q. Okay. This is an e-mail he sent after you told him your
6 objective was to attack military bases in the United States?

7 A. That's specifically when I told him the places what I am
8 looking for is actually in the State of Texas.

9 Q. Okay.

10:35

10 A. Yes.

11 MR. FEAZEL: And could we see Exhibit Number 204 now?

12 BY MR. FEAZEL:

13 Q. Is this one of the links?

14 A. Yes, sir.

10:35

15 Q. And it is titled -- and it's a news article titled
16 "Goodfellow Dedicates Predator." Is that correct?

17 A. Yes, sir.

18 Q. What does this article talk about?

10:36

19 THE COURT: Now, "Predator" is what? Is that one of
20 the -- a drone missile system, a Predator?

21 THE WITNESS: They call it "Predator" or "drone," yes,
22 it's the same thing.

23 BY MR. FEAZEL:

24 Q. Okay. What does this article talk about?

10:36

25 A. Talks about the training.

1 To be honest, I really didn't read it all of it.
2 But it talks mainly about Goodfellow location, which is located
3 in San Angelo, Texas.

4 Q. Okay. So, he's found a location for you in Texas?

5 A. Yes, sir.

6 Q. And let me show you Exhibit Number 205. Is this the other
7 attachment he sent?

8 A. Yes, sir.

9 Q. And this is Goodfellow Air Force Base, from Wikipedia. And
10 it gives a history and background about Goodfellow Air Force
11 Base. Is that correct?

12 A. Yes, sir.

13 THE COURT: What's that diagram on the right? I think
14 I know what it is. You tell me if you can tell.

15 THE WITNESS: That will be an aerial map.

16 THE COURT: Of?

17 THE WITNESS: Of the Goodfellow Air Force Base in San
18 Angelo, Texas.

19 THE COURT: Go on.

20 BY MR. FEAZEL:

21 Q. Okay. Exhibit Number 211, and this is another e-mail from
22 Paul Mexia, and this is Pl9mexia@Yahoo.com?

23 A. Yes, sir.

24 Q. Who's that from?

25 A. The defendant.

10:37 1 Q. And who picked out the name Paul Mexia?

2 A. He did.

3 Q. Okay. That name was not suggested by your handlers or you?

4 A. No.

10:37 5 Q. What is the subject of this e-mail?

6 A. "A New Book."

7 Q. And you can please read the body of the e-mail?

8 A. "Kayfa haluk? La'laka bi khair," which is "How are you? I

9 hope you're doing good."

10:37 10 "I came across a pretty neat book you might like.

11 Take a look at the attachment. Hope to hear from you. Ma'

12 Salamah." "Goodbye."

13 Q. Okay. We'll show EXhibit 212.

14 Is this the attachment that came -- that he was

10:38 15 talking about a new book?

16 A. Yes, sir.

17 Q. And it's called "Sniper Training"?

18 A. Yes, sir.

19 Q. And this is a field manual put out by the Headquarters of

10:38 20 the Department of Army?

21 A. Yes, sir.

22 Q. And if I could publish Exhibit 215 now. This is an e-mail

23 dated April 22nd, 2010, from Paul Mexia, p19mexia?

24 THE COURT: "Mexia," spell it for the record, please.

10:38 25 MR. McINTYRE: Sure. It's M-E-X-I-A.

10:38

1 THE COURT: Again?

2 MR. FEAZEL: M-E-X-I-A.

3 THE COURT: Go on.

4 BY MR. FEAZEL:

10:38

5 Q. Who's that from?

6 A. The defendant.

7 Q. And there is some Arabic and some Arabic writing, and the
8 title is, "The First Step." Could you please read this and
9 translate it?

10:38

10 A. "Asalamu alaykum wa rahmatullah." And then there is in
11 Arabic Quranic verse in there.

12 Q. Okay.

13 A. Then, "Take a look at this news. Allahu Alim" -- God
14 knows -- "but it seems as though maskar" -- which is mean

10:39

15 "camping" -- "kufr" -- which mean "infidels" -- is determined
16 to bring the wrath of Allah upon itself."

17 Q. Okay. Let's talk about this statement real quick, that
18 "kufr is determined to bring the wrath of Allah upon itself."
19 Who is he referring to by "kufr"?

10:39

20 A. The infidels.

21 Q. Is that a negative word?

22 A. Yes, sir.

23 Q. So, he's saying that the westerners are destined to bring
24 the wrath of God upon themselves?

10:39

25 A. Yes, sir.

10:39

1 Q. And he sends you an attachment?

2 A. Yes, sir.

3 Q. Let's talk about the meeting on April 23rd, 2009, that took
4 place in Memorial Park, involving the TWIC card. Can you tell
5 the judge the purpose of that meeting?

10:40

6 A. Say the question again, please.

7 Q. I'm going to direct your attention to a meeting that took
8 place on April 23rd with the defendant at Memorial Park, the
9 TWIC cards.

10:40

10 A. Okay. The purpose of that meeting is to go and collect the
11 fake identifications, the TWIC card, from Memorial Park.

12 Q. Okay. And where was this card concealed?

13 A. In Memorial Park.

14 Q. Was it put in any specific place at Memorial Park?

10:40

15 A. It was put between a flag post, I believe, under a rock,
16 inside a playing card.

17 Q. Okay. And what was this designed to look like? What was
18 this operation designed to look like?

19 A. It was designed like we going to go -- we really don't have
20 to meet the person who is going to give us those cards, hand to
21 hand; so, this person is going to leave it at a certain place
22 which he's going to inform me about.

10:40

23 And then we're going to take a run so we're going
24 to look like casual people. Then we're going to stop by the
25 post where the cards at, retrieve those cards; and then we

10:41

10:41

1 just -- we just go back.

2 Q. Was this designed to give the appearance that you and the
3 defendant were participating in some sort of a spy operation?

4 A. Definitely.

10:41

5 Q. At this time I would like to publish Exhibit 296. It's
6 Clip 60-3.

7 THE COURT: First of all, do we have that -- do we
8 have the transcript designation yet?

9 MR. McINTYRE: Yes, your Honor.

10:41

10 THE COURT: What number was it that he made the
11 inquiry I made?

12 MR. McINTYRE: It was 322.

13 THE COURT: Exhibit 322. And that is a transcript?

14 MR. McINTYRE: Yes, your Honor.

10:41

15 THE COURT: Thank you.

16 *(Tape playing)*

17 BY MR. FEAZEL:

18 Q. Okay. In this clip the defendant is discussing
19 astrological signs. Why is he discussing this?

10:43

20 A. When we going to use those fake cards, they -- he said they
21 might ask us for these -- this kind of question.

22 THE COURT: Who is "they"?

23 THE WITNESS: The guards where we're going to go.

24 THE COURT: Okay.

10:43

25 BY MR. FEAZEL:

10:43 1 Q. So, in order to confirm the legitimacy of these cards, he's
2 having you know the date of birth and the astrological sign
3 associated with them?

4 A. Yes, sir.

10:43 5 Q. And this is his idea?

6 A. Yes, sir.

7 Q. So, he's directing you in a manner that will help you
8 perpetrate this identity fraud, identity theft scheme?

9 A. Yes, sir.

10:43 10 Q. Did he ever say, "Let's not do this"?

11 A. No, sir.

12 Q. Did he ever say, "I don't want to have anything to do with
13 the fake identification"?

14 A. No, sir.

10:43 15 Q. When you showed him the fake card, did he try to get out of
16 the car and walk away?

17 A. No, sir.

18 Q. Let's show, from the same Exhibit 296, Clip 60-4.

19 *(Tape playing)*

10:45 20 BY MR. FEAZEL:

21 Q. Okay. The defendant, can you describe his demeanor in
22 this? Is he excited, is he sad?

23 A. He's very excited that he -- he was a step ahead of me by
24 finding -- by finding this Goodfellow place in San Angelo.

10:46 25 Q. In fact, he mentions two or three times it's the "largest

10:46 1 elephant school in the world." Is that correct?

2 A. Yes, sir.

3 Q. Once again, "elephants" meaning "drones"?

4 A. Yes, sir.

10:46 5 Q. At this time I would like to publish Exhibit 231. This is
6 an e-mail from Paul Mexia, P19Mexia@Yahoo.com. Who is this
7 e-mail from?

8 A. The defendant.

9 Q. And the subject of the e-mail is, "What's your sign?"

10:46 10 A. Yes, sir.

11 Q. And can you please read the body of the e-mail?

12 A. "I really enjoyed the Chinese today. Did you know that
13 someone who is born on March 8 has a sign of Pisces? I've been
14 doing some reading but still haven't been able to come across
10:46 15 any really good books. I'll be in touch insha Allah" -- "God
16 willing" -- "salam."

17 Q. This March 8 day, is that the fake birthday you were
18 assigned?

19 A. Yes, sir.

10:47 20 Q. And he's telling you the Pisces is the astrological sign
21 that coordinates with March 8?

22 A. Yes, sir.

23 Q. He mentions in here that he hasn't been able to come across
24 any really good books. What does he mean by "good books"?

10:47 25 A. He meant he has not found any good manuals for him to send

1 to me so I can send to my brothers in al-Qaeda in the Arabian
2 Peninsula.

3 Q. Let me publish Exhibit Number 237.

4 All right. Here's an e-mail. It's an e-mail
5 string. And it's dated Tuesday, April 27th, 2010, from Paul
6 Mexia. Who is this Paul Mexia, again?

7 A. The defendant.

8 Q. Okay. He sends you -- and I'll go through it briefly --
9 that, "I thought that info might have been old" --

10 THE COURT: Slow down, please. Say it again.

11 BY MR. FEAZEL:

12 Q. "I thought this information may have been old. I found a
13 list of books on this site." And he sends you a link. And
14 another link to some more books. But if we go down here -- and
15 a little bit more.

16 Okay. There's something in Arabic. What is
17 that?

18 A. There is -- okay. Well, he wrote -- there is -- there was
19 a Quranic verse. Then he says, "I am very busy now akhi" and
20 then the words is -- (speaking in Arabic)

21 Basically he says, "Don't you ever hate something
22 that might be actually good for you?" That's the translation
23 of that Quranic verse.

24 Q. So, he's talking about hate being good for you?

25 A. Yeah, don't -- you know, sometimes bad things happen; but

1 the consequences of it is good.

2 Q. All right. Let me show you Exhibit Number 239. And this
3 is the link that he sent you in that e-mail. What is the
4 significance of this link?

5 A. It has multiple links, and it's about army intelligence and
6 security doctrine.

7 Q. Okay. So, is this a big master link to a bunch of military
8 manuals?

9 A. Yes, sir.

10 Q. All right. Let me direct your attention to a meeting on
11 May 3rd, 2009. And this was to be at a Shell in Navasota in
12 regards to phones. Do you remember this meeting?

13 A. Yes, sir.

14 Q. Can you tell the judge what this meeting was about? What
15 were you to do at this meeting, per your handlers?

16 A. This meeting was a prior for us -- for him to departure the
17 country. So, I was supposed to meet with him. I'm going to
18 give him a cell phone, and we're going to activate the cell
19 phone. He's going to have to remember his phone number, my
20 phone number. And we're going to test it, if it works. Make
21 sure to tell him that the time for him to departure the country
22 is very close. That's -- that's about it.

23 THE COURT: Why did you go -- is it Navasota? Why did
24 you go to Navasota?

25 THE WITNESS: It's very close to where he lives.

1 THE COURT: Oh, okay.

2 BY MR. FEAZEL:

3 Q. All right. Let's talk for a minute about some military
4 manuals, ones that are restricted and not available to the
5 general public. Did you have any of those with you?

6 A. Yes, I did.

7 Q. Who did you get those from?

8 A. My handlers.

9 Q. Given that these were not for public dissemination and that
10 your average person can't get them, what did they tell you in
11 regards to those two military manuals?

12 A. They strictly told me many times, "Make sure he does not
13 take them. Make sure he does not take them. So, you can just
14 have to show it to him and bring it back."

15 Q. Okay. Were these two military manuals "Unmanned Vehicle
16 Operations" and "The Effects of Weaponry in US Operations"?

17 A. Yes, sir.

18 Q. All right. Did you show these two restricted military
19 manuals to the defendant?

20 A. Yes, sir.

21 Q. How did you do that?

22 A. I told him to grab it up from where they're at and open it.
23 And I -- we -- I -- my handlers had designated a certain area
24 for me to -- for him to explain it. So, he looked at it; and
25 he start reading from it a little bit.

10:51

1 Q. Okay. When you say that --

2 THE COURT: Okay. Where is it? In the car or --

3 THE WITNESS: It's inside the car, yes, sir.

4 THE COURT: In the car.

10:51

5 THE WITNESS: Yes.

6 THE COURT: All right.

7 BY MR. FEAZEL:

8 Q. And when you say that your handlers had identified certain
9 areas, do you mean they tabbed it?

10:51

10 A. Yes.

11 Q. Okay. Was he allowed to look past those tabs?

12 A. I was -- I don't remember if there's a significant about
13 that.

14 Q. All right. Let me show you Exhibit 297. It's Video Clip
15 67-3.

10:51

16 *(Tape playing)*

17 BY MR. FEAZEL:

18 Q. Okay. In this video, is he saying that he wants to be with
19 the mujahideen?

10:55

20 A. With the mujahideen, yes, sir.

21 THE COURT: He says that word specifically in that
22 clip, correct?

23 THE WITNESS: Yes, sir. It's his word.

24 BY MR. FEAZEL:

10:55

25 Q. And does that mean a "physical fighter," someone who

1 actually fights?

2 A. Absolutely. Because he said he's willing to live with the
3 brothers and die with the brothers.

4 THE COURT: What was the discussion about paradise and
5 the rivers and so forth? What -- what relation does that have
6 to your impression?

7 THE WITNESS: My impression is -- is that he is -- he
8 wants to die over there so he can go to the paradise that is
9 humongous in size and there will be rivers and there will be --

10 THE COURT: Palaces.

11 THE WITNESS: -- palaces, there will be wives, there
12 will be all the good stuff that he couldn't have in the present
13 time.

14 BY MR. FEAZEL:

15 Q. Is that something that's associated with martyrdom?

16 A. Absolutely.

17 THE COURT: Let me ask you this. Just -- I'm going
18 to -- if I need to go back and look at this, what's the
19 transcript number of this one? The transcript number? I'm
20 sorry. But I got to -- if you can be prepared to -- because
21 I'm not going to start -- I know I can pull the disks out if I
22 need to, but it will be a lot easier for me if I want to relate
23 to anything to relate to certain transcripts.

24 Transcript number?

25 MR. MCINTYRE: It's 323.

1 THE COURT: 323. Thank you.

2 BY MR. FEAZEL:

3 Q. All right. Let me publish a clip from the same
4 Exhibit 67-4.

5 *(Tape playing)*

6 THE COURT: The phrase "this obligation to religion,"
7 what context is that used there?

8 That was one of the phrases that he was -- in the
9 transcript.

10 THE WITNESS: Yeah. He believes that I am part of the
11 mujahideen, who is going to commit an act over here in the
12 United States. And he thinks that it is my obligation and my
13 religion, I'm over here to fulfill it.

14 THE COURT: Your obligations?

15 THE WITNESS: Yes.

16 THE COURT: They're talking -- the witness is --

17 THE WITNESS: Yes. He believes that's my obligation.

18 THE COURT: That's your obligation.

19 THE WITNESS: That's my obligations, yes.

20 THE COURT: Okay.

21 THE WITNESS: And he's saying that God will reward me
22 for it.

23 THE COURT: Okay.

24 BY MR. FEAZEL:

25 Q. And, in fact, he is saying "God willing." Is that correct?

10:59

1 A. Yes.

2 Q. Is that like, "God willing, you'll be successful"?

3 A. Yes, sir.

4 Q. And how would you describe the defendant's demeanor? Is he
10:59 5 excited? Is he ready to go?

6 A. He said -- he said "Insha Allah" many times. He's -- yes,
7 he's basically praying for it and asking for it, yes.

8 Q. All right. Let me show you Exhibit 261. Okay. This is an
9 e-mail dated May 26, 2010, from Paul Mexia. Who is that?

10:59

10 A. The defendant.

11 Q. And in this e-mail, in the body, he says, "I've been
12 thinking maybe if you or any friends and family want to go to
13 the zoo. There are plenty to choose from, with lots of dogs
14 and elephants. View the attachment. Any questions? Send me
11:00 15 an e-mail."

16 All right. When he says "maybe you and any
17 friends," who is he talking about?

18 A. He's talking about if me and the mujahideen would like to
19 go see the "zoo," the "zoo" is -- will be the installation
11:00 20 where they have the drones.

21 Q. Okay. So, the "zoo" is the military bases?

22 A. Yes, sir.

23 Q. And when he says "you and friends" he's referring to
24 al-Qaeda?

11:00

25 A. Yes, sir.

11:00

1 THE COURT: What about "dogs"?

2 THE WITNESS: "Dogs" is a common -- is a common word
3 used by the mujahideen to tell about the soldiers, the American
4 soldiers.

11:00

5 THE COURT: Oh, okay.

6 BY MR. FEAZEL:

7 Q. All right. And let's show Exhibit -- and the attachment to
8 this e-mail, Exhibit Number 262.

9 This is "Guide to Air Force Installations

11:00

10 Worldwide." Is this what he sent you, meaning that these are
11 where the "zoos" are?

12 A. Yes, sir.

13 Q. And this is where the "zoos" are with the "dogs" and the
14 "elephants"?

11:00

15 A. Yes, sir.

16 Q. And what is laid out in this document?

17 A. It's pretty much every location of the -- of the United
18 States Air Force worldwide.

19 Q. So, this has air force bases in the United States and
20 outside the United States?

11:01

21 A. Yes, sir.

22 Q. All right. Let me show you Exhibit Number 244.

23 All right. This is an e-mail and -- from Paul
24 Mexia. And it's an e-mail string.

11:01

25 But he says, "Just came across something I

1 thought you would like," and sent you a link to an article.

2 And above this -- is this your response to him?

3 A. Yes. The top one, I think will be my response. The below
4 one is his e-mail.

5 Q. All right. Do you remember what this article was sent to
6 you? Or what it's about?

7 A. You have to open it. I have to open it to see it. But I
8 don't remember.

9 Q. Okay. Could we have the article? I believe it's
10 Exhibit 245.

11 A. Yes, I do remember now.

12 Q. And it's titled "US Approval of Killing of Cleric Causes
13 Unease." And who is the cleric they're speaking of in this
14 article?

15 A. Anwar al-Awlaki.

16 THE COURT: And what's the date?

17 MR. FEAZEL: The date is May 13th, of the article,
18 2010.

19 THE COURT: And that was before they were ultimately
20 successful, correct?

21 THE WITNESS: Yes, sir.

22 BY MR. FEAZEL:

23 Q. At this time he's still live. Is that correct?

24 A. Yes, sir.

25 Q. Let me direct your attention to May 30th of 2009 -- I mean,

11:02 1 of 2010. Do you remember that day?

2 A. Yes, sir.

3 Q. What was going to happen on that day?

4 A. I think it's the final day. Yeah. We're supposed to -- to

11:02 5 talk about the "hot fries."

6 Q. And what do you mean by that "talk about the 'hot fries'"?

7 A. "Hot fries" is the -- the fire -- I think it's a volunteer

8 fire department where we decided to -- where we decided to pick

9 him up for his final -- final trip.

11:03 10 Q. So, is "hot fries" code for something?

11 A. The "hot fries," yes, is the last day, where we're going to

12 go overseas.

13 Q. What were you going to do? What were you supposed to do?

14 Call him?

11:03 15 A. I'm supposed to send him a text or call him and tell him

16 ready. I drive to that location, and he's supposed to meet me

17 over there. I'm going to check the stuff. I'm going to put it

18 on a box, lock it, throw the phones; and then we'll drive all

19 the way to Houston.

11:03 20 Q. What time did you drive, approximately, to the fire

21 station?

22 A. I believe sometimes after midnight, after 12:00.

23 Q. When you get there, what did you do?

24 A. I told him to throw the phones out. He throws the phones

11:04 25 out; he puts a little bit of dust on it. Then we go, and make

11:04 1 sure -- I had -- I had a box. He puts all the stuff in there,
2 make sure that it fits. Then I'm going to lock it. I'm going
3 to keep the actual key, and I'm going to keep -- give him a
4 false key.

11:04 5 Q. All right. Let's talk about that. You looked at his stuff
6 and you showed him what you had and then you gave him a false
7 key. Why did you give him a false key?

8 A. So that he will not have to open it and put something else
9 that I don't know of.

11:04 10 Q. Okay. It's a way to control what he was taking with him?
11 A. Yes, sir.

12 Q. Prevent him from maybe taking a weapon?
13 A. Yes, sir.

14 Q. All right. When you showed him the items, what did you
11:04 15 show him?

16 A. I showed him -- I showed him the box where -- and then the
17 keys. That will be in -- in the fire station.

18 Q. Okay. All right. Once you got him in there, what happened
19 in the car?

11:05 20 A. He was ready. I mean, he was -- he was -- just got in
21 there and just -- ready to go basically.

22 Q. At any point in time could he have abandoned this?
23 A. He just tell me -- he could have told me, "I need to go"
24 and he just stop.

11:05 25 Q. What would have happened if during the car ride he would

11:05 1 have said, "Take me home"?

2 A. I would have taken him home.

3 Q. All right. Where were you heading?

4 A. Houston port.

11:05 5 Q. The Port of Houston?

6 A. Yes, sir.

7 Q. Okay. What's going on in the car on the way from the

8 volunteer fire station to the Port of Houston?

9 A. I'm instructing him in what's going to happen, where is he

11:05 10 going to go, who he's going to meet, what kind of code he is --

11 he's going to have to tell who's going to come and pick him up.

12 Tell him not to be nervous and get prepared.

13 Q. Did he seem nervous at all?

14 A. Not a bit.

11:05 15 Q. Okay. How long did it take for you to get to the port?

16 A. I would say approximately -- I'm not sure -- forty minutes,

17 an hour, something like that.

18 Q. What happens when you get to the port, when you arrive

19 there?

11:06 20 A. We arrive in a -- to a gateway. We had to show the ID's,

21 the fake ID's, to get in. So, we show the fake ID's. We go

22 in --

23 Q. Let's pause for a minute. Did the defendant show his fake

24 ID to the security personnel before?

11:06 25 A. Yes, he did.

11:06 1 Q. Did you watch him do it?

2 A. Yes, I did.

3 Q. What did he do specifically?

4 A. He just represented his ID to the security guard.

11:06 5 Q. And this was the TWIC card that you talked about that he
6 got at Memorial Park?

7 A. Yes, sir.

8 Q. After he did this, what did you do?

9 A. We retrieved the cards back again. We were instructed to
11:06 10 park the car in a designated area. So, we parked the cars. We
11 waited for someone to come and pick us up.

12 At that time I opened -- I opened the trunk of
13 the car. Then I had -- I had some -- some booklets and some
14 materials and some -- some money. And I told him that "You are
11:07 15 going to have to take these to the brothers."

16 And he said, "Okay."

17 Q. Were these booklets the restricted military manuals that
18 you showed him earlier?

19 A. Yes, sir.

11:07 20 Q. What kind of money did you give him?

21 A. I think I gave him some Egyptian money and some Euros.

22 Q. Did you give him a letter?

23 A. I also gave him a letter that he's going to have to give it
24 to the person who's going to come and pick him up in the port
11:07 25 where he's going to arrive in Algeria.

11:07 1 Q. Who is this person -- who did you tell him this person
2 would be?

3 A. Some -- he's going to meet some guy, some brother. He's
4 going to come pick him up. For him to know who's this guy,
11:07 5 he's going to have a little bit of burn on his hand. They're
6 going to ask him certain questions. And they're going to tell
7 him, "Have you played soccer?" And he said, yes, he's going to
8 answer that, "Yes, I played soccer." And they're going to ask
9 him, "What is going to be your -- what is your position?" And
11:08 10 he's going to answer with, "I'm a goalie." And that's the code
11 where they're going to come and pick him up.

12 Q. All right. And when you say a "brother," what do you mean
13 by a "brother"?

14 A. One of the mujahideen.

11:08 15 Q. Did you also show him a lensatic compass that he was
16 taking?

17 A. Yes, sir.

18 Q. Did you also give him SIM cards and GPS navigation systems?

19 A. Yes, sir.

11:08 20 Q. Did you also give him some other types of currency?

21 A. I believe so. I'm not sure.

22 Q. What about batteries and calling cards?

23 A. Yes, I did.

24 Q. After you -- did he say, "No, I don't want to take any of
11:08 25 this stuff over. I -- this isn't good"?

11:08 1 A. No, he did not.

2 Q. Did he watch and see everything that you were giving him?

3 A. Yeah. Because I opened it, and I explained to him exactly
4 what it is. So, I told him, "This one here goes to this and

11:09 5 this and that. And these are common -- common things that the
6 brothers ask for."

7 And he said, "Okay."

8 Q. Where did you tell him he was going to go?

9 A. Told him he's going to go to Annaba.

11:09 10 Q. And where is that?

11 A. In Algeria.

12 Q. And where did you tell him he would go from there?

13 A. And then he's going to stay in a safe house; he's going to
14 be trained for a little bit; and then, after that, they're

11:09 15 going to have to issue him a different identity because he's
16 American and he needs a visa. So, we're going to have to give
17 him false identification. And from Algeria, we're going to
18 have to transport him all the way to Yemen to join al-Qaeda in
19 the Arabian Peninsula.

11:09 20 Q. All right. Now, you say that he was going to be trained.
21 What was your understanding with him that this training would
22 involve?

23 A. It would involve military training, fighting training.

24 Q. All right. After you told him where he was going and you
11:09 25 showed him the documents, what happened?

11:09

1 A. Then we came to the time where he needs to part. We put
2 everything in the box, and then we proceeded to go into the
3 ship.

11:10

4 Q. All right. At some point in time did you say good-bye to
5 him?

6 A. I tried, but he was in a rush and he just -- he didn't say
7 goodbye or nothing. He just took off.

8 Q. So, he was so excited to go, he just quickly got on the
9 ship?

11:10

10 A. Yes, sir.

11 Q. Did he ever hesitate at all?

12 A. No.

13 Q. Did he ever think of backing out or say to you, "This is a
14 bad idea"?

11:10

15 A. No. I was instructed at any time he needs to back out I
16 need to let him back out. So, he did not back out.

17 Q. At this time I would like to play from Exhibit 298, 69-1.

18 *(Tape playing)*

19 THE COURT: Hold it a second. Where is this?

11:11

20 I mean, in other words, where is this taking
21 place?

22 BY MR. FEAZEL:

23 Q. Where was this video recorded at?

24 A. This is recorded outside the volunteer fire stations in
25 Navasota.

11:11

1 THE COURT: Okay. Before -- before the ship. In
2 other words, we're moving back to Navasota now?

3 THE WITNESS: That's the time I'm picking him up in
4 the car before we head to the Highway 290 to go to Houston
5 port.

6 THE COURT: Got it. Thank you.

7 *(Tape playing)*

8 BY MR. FEAZEL:

9 Q. Okay. Any time during this clip, did he express
10 reservations about going on a boat trip to Algiers [sic], to
11 you?

12 A. No.

13 Q. And while he's on this trip, in fact, he's still
14 continuously talking about sending your friends and family to a
15 "zoo"?

16 A. Yes, sir.

17 Q. And while this is going on, how many -- well, how many
18 times previous to this did you tell him you were with al-Qaeda
19 in the Arabian Peninsula?

20 A. Multiple times.

21 Q. At this time I would like to play 69-3.

22 THE COURT: Where is this taking place?

23 MR. FEAZEL: It's following up in the car.

24 THE COURT: How long is it?

25 MR. FEAZEL: It's about -- a little over 11 minutes.

11:28

1 THE COURT: All right.

2 *(Tape playing)*

3 THE COURT: Are they still driving?

4 MR. FEAZEL: They paused the car, and I believe -- we
11:29 5 can ask him.

6 BY MR. FEAZEL:

7 Q. At this point, sir, what's happening?

8 A. I think this is -- this is inside the port right now. We
9 already passed the checkpoint, and now we're just checking his
11:29 10 stuff back again before we get to the ship.

11 THE COURT: Okay. So, now you've gone from Navasota
12 all the way to the Ship Channel, correct?

13 THE WITNESS: Yes, sir.

14 THE COURT: And that prior tape was driving to the
11:29 15 Ship Channel. And we saw some video, and we saw some still
16 pictures.

17 Is this where you pull up to the side of the ship
18 and you're about to get that trunk out?

19 THE WITNESS: Yes, sir.

11:29 20 BY MR. FEAZEL:

21 Q. And while you're getting the trunk out, are you showing the
22 items that he's going to be taking to the al-Qaeda brothers?

23 A. Yes, sir.

24 THE COURT: Okay.

11:30 25 *(Tape playing)*

1 THE COURT: All right. Stop it right there.

2 What was it that you were going to keep with you
3 at all times? What was that item?

4 THE WITNESS: I believe those are the -- I think the
5 manual. I don't remember quite. I don't remember.

6 THE COURT: Okay.

7 THE WITNESS: But the stuff that I am giving him is
8 the stuff that he keeps with him all the time, but his luggage
9 and his stuff is going to be separated.

10 THE COURT: What about the Euros, how many Euros were
11 there? Do you remember?

12 THE WITNESS: I don't --

13 THE COURT: We have testimony on it. How much was it?
14 Anybody remember?

15 MR. FEAZEL: Conversion is about 5,000 United States
16 dollars.

17 THE COURT: That's what it was. That's what it was.

18 All right. The exchange rate was a little bit
19 different back then.

20 MR. FEAZEL: A little bit.

21 THE COURT: Because I remember you discussed about how
22 many Euros and -- it's in the record -- how many Euros and how
23 much that equates to -- equates to dollars.

24 All right. Please proceed.

25 *(Tape playing)*

1 BY MR. FEAZEL:

2 Q. Sir, this video that shows him going -- or you going up to
3 the ship, was this the last time you have seen the defendant
4 until today?

5 A. Yes, sir.

6 MR. FEAZEL: Judge, at this time, for the purposes of
7 the record, I would like to demonstrate that the defendant has
8 had a clear view to the confidential human source for purposes
9 of consultation.

10 THE COURT: All right. There is a screen for security
11 purposes put up in front of the witness, and I will observe
12 myself that the attorneys -- all the attorneys, including
13 standby counsel, and the defendant have had a clear view,
14 together with the Court and court personnel, of the
15 confidential witness. And the rest -- the view is blocked to
16 anyone who's not either law enforcement or court official or a
17 party to the suit.

18 MR. FEAZEL: At this time we pass the witness.

19 THE COURT: All right. We're going to pass the
20 witness. We're also going to take a break. Everyone remain
21 seated for about one minute. If you want to get the witness
22 out, and we'll pick up in a few minutes.

23 MR. HEENAN: Your Honor?

24 THE COURT: Yes, sir.

25 MR. HEENAN: There's one brief point I just wanted to

1 clear up to the Court and bring to the Court's attention.

2 THE COURT: Okay.

3 MR. HEENAN: Yesterday we had had admitted into
4 evidence transcripts of the audio recordings. Those items were
5 labeled Government's Exhibit 310 through 324. And it appears
6 we have two documents that have been marked 323. We would just
7 ask the Court permit us to mark them 323A and 323B.

8 THE COURT: All right. And just make sure the case
9 manager is aware of that.

10 MR. HEENAN: Yes, your Honor.

11 THE COURT: Because she'll be custodian, at least
12 temporarily, for the exhibits in this case. So, that's
13 granted.

14 MR. HEENAN: I will inform her.

15 And with respect to, there was one -- at one
16 point you had asked for what transcript number corresponded
17 with the audio and we mentioned 323. That was in fact 323B now
18 it's marked.

19 THE COURT: It's now 323B, as far as 323 goes.

20 MR. HEENAN: Thank you.

21 THE COURT: The -- all right. Now, all the other
22 transcripts have been admitted, correct? We admitted those
23 before you started playing the videos and the audios, correct?

24 MR. HEENAN: Correct, your Honor.

25 THE COURT: All right. That's in evidence.

11:44 1 It's now 11:45. We'll take a break at this time
2 because folks have to -- I don't know -- I'm not sure if the
3 defendant goes upstairs. I'm not sure what's going on in the
4 jury room. So, we'll take a -- usually we take 15 minutes.
11:44 5 We've been taking -- at this break a 20-minute break. We'll
6 take a break to 12:05; and we'll go on for about another hour,
7 hour five minutes. So, we'll see you back at 12:05.

8 (Recess was taken)

9 THE COURT: All right. Let's bring our witness in,
12:11 10 shall we?

11 All right. Be seat.

12 Ordinarily everybody remain standing when the
13 door opens and the jury walks out, and we're all standing.
14 So --

12:12 15 All right. You pass the witness, correct?

16 MR. FEAZEL: Correct.

17 THE COURT: Mr. Bujol, go right ahead, sir.

18 **CROSS-EXAMINATION**

19 BY THE DEFENDANT:

12:12 20 Q. I'm going to move forward to March 17th of 2010 in which
21 there was an article sent. I believe it's Exhibit 193. And
22 you stated something along the lines of -- why did you state
23 that the defendant sent you this document?

24 A. Why --

12:13 25 Q. Why did you -- why did you believe that I sent you this

1 document?

2 A. Because you did.

3 Q. No. What was the purpose in me sending you the document,
4 in your -- in your assessment?

5 I believe you said something like I might run
6 away or commit something -- something along those lines?

7 A. Yeah. After you sent that one, I was afraid you were going
8 to do something immediately, you were not going to wait until
9 you actually leave the country. So, you might actually
10 participate in an act of jihad inside the United States.

11 THE DEFENDANT: Okay. I want to go to the next page,
12 please. Blow it up.

13 BY THE DEFENDANT:

14 Q. If you can read where it says -- starting where it says,
15 "Find this article at" -- and tell us what that is and read
16 that out for us, please?

17 MR. FEAZEL: I would object to the form of the
18 question.

19 THE COURT: Sustained. Just rephrase it.

20 BY THE DEFENDANT:

21 Q. Can you please read the link below, where it says, "Find
22 this article"?

23 THE COURT: Well, let's put it this way. It's in the
24 record. It's in the record. We've identified it.

25 Ask him the next question, please.

1 THE DEFENDANT: Okay. I'll have the government go to
2 Exhibit 192.

3 Next page. Next page, please. Okay.

4 BY THE DEFENDANT:

5 Q. Do you recognize this e-mail to be the one wherein I sent
6 the link?

7 A. I'm sorry. Ask that question again.

8 Q. Do you recognize this --

9 THE DEFENDANT: Could you go to the previous page in
10 this -- no, no, no. Went too -- one more.

11 Okay. If you could blow up the bottom, because
12 it's a continuation. It's a little difficult.

13 BY THE DEFENDANT:

14 Q. Okay. At the bottom here --

15 THE DEFENDANT: No. That's -- next page. You're
16 going in the wrong direction.

17 THE COURT: All right. Just ask him the question.
18 Ask it instead of -- you have it up there. We've just got to
19 move.

20 THE DEFENDANT: Well --

21 THE COURT: By the way, I'm not rushing you; but we
22 need to stay and not get bogged down at any point. All right?

23 THE DEFENDANT: Yeah. This isn't going to take very
24 long.

25 Just go back to the final page, and we'll go to

1 the link and blow it up from there.

2 THE COURT: Okay. Got it. There we go.

3 BY THE DEFENDANT:

4 Q. Okay. Below where it says, "Please take a look at this
5 link," read what it says after that, please.

6 A. "Http.www" --

7 Q. Oh, no. The --

8 THE COURT: No. "Let me know" --

9 THE WITNESS: Oh, "Let me know what you think. I'm
10 not so sure about it."

11 BY THE DEFENDANT:

12 Q. Okay. Now, given what you said about why you believed I
13 sent the article and what it purports to do, do you find
14 someone having doubts with regards to this call to arms by
15 saying they're not sure about it consistent with wanting to run
16 away at any time and commit this atrocious act?

17 THE COURT: Hold it a second. The other attorney is
18 getting up to object.

19 Go on.

20 MR. FEAZEL: Form and speculation.

21 THE COURT: Technically, you're correct. I'm going to
22 let him answer anyhow.

23 Do you know what was meant by that?

24 THE WITNESS: (No audible response).

25 THE COURT: Do you know what was meant by that?

1 Now, you're on cross-examination. Short and to
2 the point, do you know what was meant by that?

3 THE WITNESS: No, not clearly.

4 THE COURT: Okay. That's how we're going to get
5 going. Cross-examination, short and to the point, that's the
6 whole -- that's why he's asking very specific questions.

7 BY THE DEFENDANT:

8 Q. Okay. The significance of the word "Qandahar"?

9 A. Significant of the word --

10 Q. Yes. Have you heard this word?

11 First question, have you ever heard of the word
12 "Qandahar"?

13 A. "Qandahar," yes.

14 Q. How would you spell that?

15 A. In Arabic or in English?

16 Q. In Arabic.

17 A. In Arabic? (speaking in Arabic)

18 Q. Okay. And -- (speaking in Arabic) -- corresponds what in
19 English?

20 A. It could be "K," it could be "Q."

21 Q. Okay. So, how would you spell it in English?

22 A. Could be different, could be with a "Q" or with a "K."

23 Q. Well, with -- with the "Q" or "K" spelling, how would you
24 spell out the complete word?

25 A. "Qandahar"?

12:18

1 Q. Yes, sir.

2 A. Would be Q-U-N-D-A-R -- A-H-R, "Qandahar."

3 Q. If you spelled it out as Q-A-N-D-A-H-A-R, would you also
4 recognize it?

12:18

5 A. Really, where you are going to put the words at? I mean,
6 you have to put it in a sentence for me to understand what
7 exactly you mean. If you're just going to have it in English
8 without any sentence, it would be gibberish to me.

9 Q. Okay.

12:18

10 A. So, you are going to have to put -- you're going to have to
11 put any kind of word that is specifically a foreign to the
12 English, you're going to have to put it in a sentence for me to
13 understand it.

14 Q. Well, what is the word --

12:19

15 A. It's a city name. It's a city name.

16 Q. Okay. Where is that city?

17 A. I believe it's in -- I think it's in Afghanistan. I'm not
18 sure.

19 Q. Afghanistan? Okay. Have you heard of the Yahoo! account
20 CYPX6YY@Yahoo.com?

12:19

21 A. Have I heard of it?

22 Q. Yes.

23 A. Can you put it on the screen, please?

24 THE DEFENDANT: Your Honor --

12:19

25 THE COURT: Yes, sir.

1 THE DEFENDANT: I want to move to -- this is a copy of
2 an e-mail from the source to myself, and I would like to have
3 it admitted. Since I don't have screen access, it will have to
4 be read.

5 THE COURT: Okay. Any objection?

6 MR. FEAZEL: No objection, your Honor.

7 THE COURT: All right. What -- okay. Is this your
8 first exhibit? In other words, if you're going to have
9 something coming into evidence -- I haven't put anything else
10 in for the defendant yet, have I, anybody? Do you recall?

11 MR. McINTYRE: I do not recall that you have.

12 THE COURT: Okay. So you want this marked and put in
13 as your Exhibit Number 1. Is that correct?

14 THE DEFENDANT: Yes.

15 THE COURT: Okay. Hang on a second. Defendant's
16 Number 1. Somehow, since Ellen is not here, as soon as it's
17 through, take a little yellow tag -- take just a -- that kind
18 of a tag, because she can put it later. That would be
19 Defendant's Number 1 is in evidence.

20 Now, do you want to read it or do you want to
21 show it to him or both?

22 THE DEFENDANT: I'll just read it.

23 THE COURT: What's the date?

24 THE DEFENDANT: It's --

25 THE COURT: Hold it one second.

1 2 : 2 0 1 Other side want to look at it first or just keep
2 moving?
3 MR. FEAZEL: I would like to look at it.
4 THE COURT: Okay.
1 2 : 2 1 5 MR. FEAZEL: I'm familiar with it. No objection.
6 THE COURT: Okay. Who's it from and who is it to,
7 sir?
8 THE DEFENDANT: It's from the source to me.
9 THE COURT: Okay. Got it.
1 2 : 2 1 10 BY THE DEFENDANT:
11 Q. And it's -- basically it says, "The brothers in Qandahar
12 are stronger. The rest is with Allah," and some other Arabic
13 transliteration into English. "And there's a lot that will be
14 happening. I will be running again this week."
1 2 : 2 1 15 Now, what I want to bring your attention to is
16 the "brothers in Qandahar." And you just mentioned that
17 Qandahar is in Afghanistan, correct?
18 A. Yes, sir.
19 Q. So, these brothers being referred to here are not in fact
1 2 : 2 2 20 in the Arabian Peninsula?
21 A. No, sir.
22 THE DEFENDANT: No further questions.
23 THE COURT: Thank you, sir. Anything further?
24 MR. FEAZEL: Nothing further.
1 2 : 2 2 25 THE COURT: Very well. You may step down. You're

12:22 1 excused. You're free to leave.

2 We can move that screen and turn the light on
3 now.

4 All right. Government, call your next witness.

12:22 5 MR. FEAZEL: At this time the United States would call
6 Bowman Price.

7 THE COURT: Sir, you want to come forward, please?
8 You can come right down the center, may be quicker.

9 Raise your right hand and be sworn.

12:22 10 You swear the testimony you're about to give in
11 this case on trial will be the truth, the whole truth, and
12 nothing but the truth?

13 THE WITNESS: Yes, sir.

14 THE COURT: Have a seat right there.

12:23 15 Okay. Pull that microphone in. You can pull it
16 up, and it's completely flexible.

17 Okay. Go right ahead.

18 MR. FEAZEL: May I proceed?

19 THE COURT: Yes, sir.

12:23 20 You got a microphone yourself over there now,
21 counsel?

22 MR. FEAZEL: I do, your Honor.

23 THE COURT: It will pick up.

24 - - - - -

25

1 **BOWMAN ERIC PRICE, GOVERNMENT'S WITNESS, TESTIFIED:**

2 **DIRECT EXAMINATION**

3 BY MR. FEAZEL:

4 Q. Sir, will you please state your name for the judge?

1 2 : 2 3 5 A. Bowman Eric Price.

6 THE COURT: How do you spell your first name?

7 THE WITNESS: B-O-W-M-A-N.

8 THE COURT: P-R-I-C-E?

9 THE WITNESS: Correct.

1 2 : 2 3 10 BY MR. FEAZEL:

11 Q. And you go by Eric. Is that right?

12 A. Yes.

13 Q. Where do you currently work?

14 A. I'm senior investigator with the Friendswood Police
1 2 : 2 3 15 Department, assigned to the FBI task force.

16 Q. How long have you been with the Friendswood Police
17 Department?

18 A. Eleven years.

19 Q. Are you a Certified Peace Officer within the State of
1 2 : 2 4 20 Texas?

21 A. Yes.

22 Q. How long have you been so?

23 A. Since '83.

24 Q. And where did you work before you were with the Friendswood
1 2 : 2 4 25 Police Department?

1 A. Brazoria County Sheriff's Department.

2 Q. At some point in time, did you get involved in the Safe
3 Streets Task Force with the Federal Bureau of Investigation?

4 A. Yes.

5 Q. When was this?

6 A. Approximately five years ago.

7 Q. And did you then join, as well, the JTTF?

8 A. Correct.

9 Q. Can you explain to the judge what the JTTF is?

10 A. Investigations regarding counterterrorism.

11 Q. And did you receive any training as a part of your time at
12 the Joint Terrorism Task Force?

13 A. Yes.

14 Q. Can you tell the judge your training that you have had?

15 A. They sent me to Orlando for a week for JTTF school. I've
16 been to Nevada and Dallas for other schools.

17 Q. So, you've had a couple of weeks of extra -- additional
18 training?

19 A. Correct.

20 Q. Now, how often do you work at the Port of Houston or with
21 authorities at the Port of Houston?

22 A. Every so often.

23 Q. Would you say pretty frequently?

24 A. Yes.

25 Q. And at some point in time were you approached by the FBI

1 about posing as a security guard in a case that they were
2 investigating?

3 A. Correct.

4 Q. How did that come about?

5 A. I was contacted by the Bryan RA through one of the ICE
6 agents at our task force and they asked if I would do it and I
7 said okay.

8 Q. Were you briefed about the facts of the case?

9 A. Correct.

10 Q. And after you were briefed about the facts, what then
11 happened?

12 A. We had a couple of meetings, we discussed everything, and
13 then they said the -- we had a couple of dates we were working
14 on and we show up the night that it happened.

15 Q. And what were you specifically told that you were going to
16 do?

17 A. I was going to work the security guard position at the main
18 gate of the terminal where the boat was located, ID the
19 individuals that came in, and basically let them through.

20 Q. How were you to ID the individuals that came in?

21 A. They would have TWIC cards with them.

22 Q. When you say "TWIC cards," what does that mean?

23 A. They -- I believe there's the -- I believe they're Texas
24 Workforce ID cards.

25 Q. And are those official government documents?

1 2 : 2 6

1 A. Yes.

2 Q. Is that what you ID everyone who comes in the port with?

3 A. That night, yes.

4 Q. Someone entering the port, do they need the TWIC card to
5 enter?

6 A. Yes.

7 Q. All right. Were you told -- were you given a heads-up as
8 to what type of a car the defendant would be in?

9 A. Basically was shown what it was going to look like and the
10 name that was going to be on the card.

1 2 : 2 6

11 Q. Well, let's talk about the car that he was going to come
12 in.

13 A. Oh, the car. Oh, okay.

14 Q. What --

1 2 : 2 6

15 A. It was an SUV, smaller type vehicle.

16 Q. Was it a Honda Pilot?

17 A. Right.

18 Q. What color was it?

19 A. I believe it was maroon.

1 2 : 2 7

20 Q. All right. When you saw this car, what were you instructed
21 to do?

22 A. Basically ID the individuals, make sure they had those TWIC
23 cards, let them through the gate and tell them where they're
24 supposed to park and where they're supposed to gather to be
25 taken to the ship.

1 2 : 2 7

1 2 : 2 7 1 Q. Were you supposed to check the vehicle license plate, as
2 well?

3 A. Correct.

4 Q. At some point in time did you get a call that -- on the
1 2 : 2 7 5 30th, that you were to be at the port at midnight?

6 A. Yes.

7 Q. And did you get there at midnight?

8 A. Yes.

9 Q. Where did they send you to?

1 2 : 2 7 10 A. I went straight to the security guard shack.

11 Q. Were you given a certain uniform?

12 A. Right. They gave me a -- we were able to obtain a security
13 guard uniform.

14 Q. Were you given a special hat?

1 2 : 2 7 15 A. It was a special hat, yes.

16 Q. What was special about it?

17 A. It had a video camera in it.

18 Q. And when you say a camera, was it a camera that can record
19 video?

1 2 : 2 8 20 A. Right.

21 Q. And were you stationed at the main entrance post?

22 A. Correct.

23 Q. At some point in time did you get a call from dispatch that
24 the defendant's vehicle would be coming to you soon?

1 2 : 2 8 25 A. Right. We -- we knew pretty much where the vehicle was

12:28 1 located at all times. And they told me approximately what time
2 they would arrive.

3 Q. What time did the defendant arrive in that maroon Honda
4 Pilot?

12:28 5 A. I believe it was around 2:45, 3:00 o'clock, in that area
6 there --

7 Q. Did you make --

8 A. -- in the morning.

9 Q. In the morning.

12:28 10 A. Okay.

11 Q. Did you maintain a visual on his car the entire time as he
12 drove up?

13 A. Right.

14 Q. When he pulls up next to you, what did you do?

12:28 15 A. I went up to the vehicle, noticed that there wasn't a front
16 license plate. As I approach the driver's side, walked around
17 to the rear, saw the rear license plate, came around to the
18 passenger side, and asked for the TWIC cards at that time and
19 for positive ID.

12:29 20 Q. Okay. Now, when you say you came to the passenger side,
21 who was sitting in the passenger side? Is that Barry Walter
22 Bujol, Jr.?

23 A. Yes, it was the defendant.

24 Q. Do you see that person in the courtroom today?

12:29 25 A. Yes. He's over there in the green jumpsuit.

1 MR. FEAZEL: May the record reflect this witness has
2 identified the defendant?

3 THE COURT: The record will so reflect.

4 BY MR. FEAZEL:

5 Q. When you approached him, did you get a good visual on his
6 person?

7 A. Yes.

8 Q. Were you able to look at his face?

9 A. Yes.

10 Q. What did you ask him for?

11 A. Basically, either -- a TWIC cards and what their business
12 was for the coming to the port.

13 Q. Did he give you a TWIC card?

14 A. Yes.

15 MR. FEAZEL: May I approach the witness?

16 THE COURT: You needn't ask; but, yes, you may. You
17 have free range of the courtroom.

18 BY MR. FEAZEL:

19 Q. Exhibit 325, do you recognize this?

20 A. Yes.

21 Q. Was this the card that the defendant, who you just ID'd
22 positively as Barry Walter Bujol, gave you?

23 A. Yes, it is.

24 Q. Is this a TWIC card?

25 A. Right.

1 MR. FEAZEL: At this time I would like to offer
2 Government Exhibit 325. It was not previously offered.

3 THE COURT: "Was" or "was not"?

4 MR. FEAZEL: Was not.

5 THE COURT: Okay. 325 is admitted.

6 BY MR. FEAZEL:

7 Q. Can you tell the Court what it says on the card, in the
8 upper right-hand corner?

9 A. "TWIC," T-W-I-C.

10 Q. And what does that stand for?

11 A. Get my glasses out first so I can see it.

12 "Transportation Worker Identification
13 Credentials."

14 Q. When does it expire?

15 A. April 10th, 2014.

16 Q. Who's name is on this?

17 A. Mexia, Paul.

18 Q. And whose picture is on this?

19 A. That's the defendant.

20 Q. Okay. And on the back, does this talk about how this is a
21 government ID and there's repercussions for falsely using it?

22 A. Yes.

23 Q. When he handed you this card, did you look at the
24 photograph and then look at his face?

25 A. Yes, I did.

12:31

1 Q. Was it one and the same person?

2 A. Yes, it was.

3 Q. Was he representing to you that this was his
4 identification?

12:31

5 A. Yes.

6 Q. Was he representing to you that this was who he was, a Paul
7 Mexia?

8 A. Yes. He handed me that card, yes.

9 Q. After he gave you this card, what did he then do?

12:31

10 A. I asked him a couple of questions: Were they both going to
11 the boat, did they know where to park, and that kind of stuff.
12 And they acknowledged, and I let them through the gate.

13 Q. All right. Once you let them through the gate, did you
14 direct them where to park?

12:31

15 A. Yes.

16 Q. Where did you tell them to park?

17 A. Just inside the gate, about 20 yards to the left, near the
18 gathering spot that they all use in there, in the port.

19 Q. Was that the end of your involvement?

12:31

20 A. Yes.

21 Q. And you said that you had a hat camera on. Is that
22 correct?

23 A. Yes.

24 Q. Was this recorded?

12:31

25 A. Yes.

1 2 : 3 1

1 Q. Have you seen the video?

2 A. Yes.

3 Q. Does it fairly and accurately represent what happened that
4 evening?

1 2 : 3 2

5 A. Yes, it did.

6 Q. At this time I would like to publish previously admitted --
7 it's Exhibit 2991D72.

8 *(Tape playing)*

9 THE COURT: All right. Hang on one second.

1 2 : 3 2

10 Is there appropriate blocking out of your
11 confidential source?

12 MR. FEAZEL: He will not be depicted in this video.

13 THE COURT: Not depicted in this portion. In other
14 words --

1 2 : 3 2

15 MR. FEAZEL: Exactly.

16 THE COURT: -- it has been cut out?

17 Or that's not being submitted?

18 MR. FEAZEL: That's correct.

19 THE COURT: All right.

1 2 : 3 2

20 *(Tape playing)*

21 THE COURT: By the way, just for the folks in the back
22 and in the audience, you're now free to sit on either side of
23 the courtroom. That restriction was only in force because of
24 the prior witness.

1 2 : 3 4

25 All right. Go right ahead, please.

1 BY MR. FEAZEL:

2 Q. Did that video depict just what we had talked about when
3 you went and ID'd him and looked at the card and looked at him?

4 A. Yes, it did.

5 MR. FEAZEL: Pass the witness.

6 THE COURT: Okay. Mr. Bujol?

7 THE DEFENDANT: No questions.

8 THE COURT: No questions? Okay. No questions.

9 Thank you, sir. You may step down. You're
10 excused. You're free to leave.

11 By the way, all prior witnesses, just for the
12 record, the same thing I said for all last two witnesses, you
13 may step down once you're done, you're excused, and you're all
14 free to leave if you desire.

15 All right. Call your next witness.

16 MR. FEAZEL: The United States would call Oscar Pena.

17 THE COURT: Raise your right hand, be sworn, please.

18 You swear the testimony you're about to give in
19 this case on trial will be the truth, the whole truth, and
20 nothing but the truth?

21 THE WITNESS: I do.

22 THE COURT: All right. Have a seat, please.

23 - - - - -

1 OSCAR X. PENA, GOVERNMENT'S WITNESS, TESTIFIED:

2 DIRECT EXAMINATION

3 BY MR. FEAZEL:

4 Q. Could you please state and spell your name for the judge
1 2 : 3 5 5 and court reporter?

6 THE COURT: Pull the mike over a bit.

7 THE WITNESS: It's Oscar, O-S-C-A-R, X, Pena, P-E-N-A.

8 BY MR. FEAZEL:

9 Q. And where do you work?

1 2 : 3 6 10 A. The Houston Police Department.

11 Q. And how long have you worked with the Houston Police
12 Department?

13 A. Twenty-seven years.

14 Q. Are you a Certified Peace Officer within the State of
1 2 : 3 6 15 Texas?

16 A. Yes, sir, I am.

17 Q. Are you also known as a Master Peace Officer?

18 A. Yes, sir, I am.

19 Q. How long have you been a Master Peace Officer?

1 2 : 3 6 20 A. For about the last seven years.

21 Q. Let's talk for a minute --

22 THE COURT: Why don't you sit back and relax. Pull
23 that mike up. People are afraid to straighten it out. You're
24 not afraid. There you go.

1 2 : 3 6 25 We have a new system here. We might as well take

1 full advantage of it. It took me a long time to get it
2 installed.

3 All right. Go right ahead.

4 BY MR. FEAZEL:

5 Q. All right. Excuse me. I think we were talking about how
6 long you've been a Master Peace Officer?

7 THE COURT: Oh, Master Peace Officer since?

8 THE WITNESS: 2003.

9 THE COURT: Thank you.

10 BY MR. FEAZEL:

11 Q. And can you describe the basic -- were you ever on patrol?

12 A. I was on patrol for 10 years.

13 Q. Where did you go after patrol?

14 A. I went to the robbery division as a robbery investigator.

15 Q. How long were you in the robbery division?

16 A. Three years.

17 Q. And after robbery, where did you go?

18 A. I went to the narcotics division.

19 Q. How long were you with narcotics?

20 A. Seven years.

21 Q. And what did you do in narcotics?

22 A. In the narcotics division, I was a case agent and
23 undercover officer.

24 Q. And after seven years in narcotics, where did you go?

25 A. I went to the criminal intelligence division.

1 Q. Is that where you currently are?

2 A. I am currently there now, yes, sir.

3 Q. How long have you been there?

4 A. Since -- for the last seven years.

5 Q. And can you tell the judge your duties with the criminal
6 intelligence division?

7 A. The criminal intelligence division, I was conducting
8 intelligence investigations for the police department.

9 Q. And at some point in time did you join the Joint Terrorism
10 Task Force of the Federal Bureau of Investigation?

11 A. For the last three years, I've been assigned over at the
12 JTTF.

13 Q. Let's talk for -- or let me direct your attention to the
14 investigation involving Barry Walter Bujol, Jr. How did you
15 get involved in this?

16 A. I was approached by Agent Cannon to assist in the
17 investigation.

18 Q. And what did he ask you to do?

19 A. He asked if we could get a marked police car and wear our
20 uniforms on that night.

21 Q. On the night of the arrest?

22 A. On the night of the arrest, yes, sir.

23 Q. So, did you have a briefing on what you would do and the
24 facts of the investigation and operations?

25 A. Yes, sir, we did.

12:38

1 Q. What did they discuss, just briefly, at this meeting?

2 A. That they had an individual that was attempting to get out
3 of the country, was trying to go to the Middle East to join
4 al-Qaeda to fight overseas.

12:38

5 Q. Now, I believe you testified that you were to show up in
6 full uniform and also a marked patrol unit?

7 A. That is correct.

8 Q. Why was it decided that you would show up in a uniform and
9 marked patrol unit?

12:39

10 A. The marked patrol cars have a cage in the back, and it's
11 easier to transport individuals from one location to another.

12 Q. Given that this was also an FBI investigation, was this
13 also to confuse him?

14 A. It was also to keep the defendant off balance, yes, sir.

12:39

15 Q. And can you explain to the judge what you mean by "off
16 balance"?

17 A. So, that he wasn't actually sure of -- as him being the
18 target of the investigation, if it was being conducted by the
19 FBI or by the Houston Police Department.

12:39

20 Q. Does this maybe prevent him from coming up with a story or
21 excuse on why you're transporting him?

22 A. Yes, sir.

23 Q. Once you got to the Port of Houston on the 30th of May,
24 2010, where were you stationed in your patrol car?

12:39

25 A. We were stationed within the perimeter of the port, in a

12:39 1 secluded area where we were out of sight from anyone coming in
2 and out.

3 Q. Were you made aware of the location of the ship that the
4 defendant was to board?

12:39 5 A. Yes, sir, we were.

6 Q. Where were you parked in relation to that ship?

7 A. We were parked just -- I guess that would be the -- north
8 of the ship, in a secluded area.

9 Q. Was he able to see you from where you were parked?

12:40 10 A. He was not.

11 Q. Did you have a dedicated radio frequency you were operating
12 on that night?

13 A. Yes, sir, we did.

14 THE COURT: What does that mean a "dedicated
12:40 15 frequency"?

16 THE WITNESS: That's a frequency that we were using
17 for the operation, your Honor.

18 THE COURT: Okay.

19 BY MR. FEAZEL:

12:40 20 Q. At approximately 2:30 did you get a call on that radio
21 frequency?

22 A. Yes, sir, we did.

23 Q. What was that in regards to?

24 A. That was in regards to the vehicle that the defendant was
12:40 25 going to be in had shown up to the area.

12:40

1 Q. And what did you do when you got that call?

2 A. We just stood by until the vehicle had made its way into
3 the port area, and then we waited for the individual to be
4 transported to the ship itself.

12:40

5 Q. Okay. Once the individual was arrested by FBI SWAT, what
6 did you do?

7 A. At that point we then proceeded directly to the ship and we
8 took custody of the defendant.

12:41

9 Q. As you're driving up to the ship, can you describe what the
10 scene was like?

11 A. There were several unmarked vehicles on the dock area; and
12 the defendant, along with another male, were handcuffed on the
13 ground.

14 Q. Did you take custody of the defendant?

12:41

15 A. Yes, sir, we did.

16 Q. How did that happen?

17 A. We just -- he was already handcuffed. We switched out
18 handcuffs, and then he was searched. I asked him for his name,
19 basic information; and he was placed in the patrol car.

12:41

20 Q. What name did he give you?

21 A. He gave us the name of Paul Mexia.

22 Q. Did you later find out that was not his correct name?

23 A. Yes, sir.

24 Q. Did you later find out his name was Barry Walter Bujol,
25 Jr.?

12:41

1 A. Yes, sir.

2 Q. Do you see this person in the courtroom today?

3 A. Yes, sir, I do.

4 Q. Can you please point to him and identify him by an article
5 of clothing?

6 A. Sitting at the table, wearing the green jump suit.

7 MR. FEAZEL: May the record please reflect this
8 witness identified the defendant?

9 THE COURT: The record will so reflect.

10 BY MR. FEAZEL:

11 Q. So, you changed out cuffs, handcuffs; then you searched
12 him, according to police protocol?

13 A. That's correct, sir.

14 Q. What did you do next?

15 A. We then placed him in the back of the police car.

16 Q. Where did you take him to?

17 A. We transported him to the FBI main office off of 290.

18 Q. How long a drive is this?

19 A. It's about a 20, 30 minute drive.

20 Q. Approximately?

21 A. Yes, sir.

22 Q. And did you have a conversation with the defendant while he
23 was in the back of the car?

24 A. Yes, sir, I did.

25 Q. And was this conversation pursuant to protocol in

1 2 : 4 2

1 identifying the defendant?

2 A. Yes, sir, it was.

3 Q. Did you ask him any facts about his case?

4 A. I did not.

1 2 : 4 2

5 Q. What did you ask him?

6 A. I asked him for his name, birthday, any identifying numbers
7 that he had, a driver's license or anything else, where he
8 lived, Social Security number, that type of information.

9 Q. Did he give you the name Paul Mexia again?

1 2 : 4 2

10 A. Yes, sir, he did.

11 Q. Did he also give you the birthdate of April 10th?

12 A. Yes, sir, I believe it was.

13 Q. All right. Was he able to give you any other additional
14 information?

1 2 : 4 3

15 A. I believe he gave us a Social Security number.

16 Q. And did you ask him any other questions, like where he was
17 from or anything like that?

18 A. I did ask him where he was from. He advised that he was
19 from the Dominican Republic.

1 2 : 4 3

20 Q. All right. And do you have an opinion, based on your
21 training and experience, why he said he was from the Dominican
22 Republic?

23 A. To tell us -- or to reflect that he was not from the US.

24 Q. Does that also match the last name Mexia?

1 2 : 4 3

25 A. It does.

1 2 : 4 3 1 Q. What did you do once you found out he was from -- or he
2 claimed to be from the Dominican Republic?

3 A. I asked him several questions in Spanish.

4 Q. How did he respond?

1 2 : 4 3 5 A. He had difficulty in answering those questions.

6 Q. What questions did you ask him?

7 A. I asked him if -- the town he was born, if he was born --
8 if he was born in the Dominican. And alls he could say was
9 "yes" or "no." That's all he could -- that's the only words he
1 2 : 4 3 10 seemed to know in Spanish.

11 Q. Did he tell you that he was born in the Dominican Republic?

12 A. He did.

13 Q. Did you ask him what town he was from?

14 A. I did.

1 2 : 4 4 15 Q. Did he -- was he able to give you an answer quickly?

16 A. It took him a few seconds.

17 Q. What did he come up with?

18 A. He came up with Santo Domingo.

19 Q. At some point in time did he get booked in at the FBI
1 2 : 4 4 20 station, then?

21 A. Yes, sir, he did.

22 Q. Can you tell the judge what happened while he was being
23 booked in?

24 A. He was being processed there at the FBI, and he continued
1 2 : 4 4 25 to use the name Paul Mexia.

1 Q. And did he have a TWIC card on him?

2 A. Yes, sir, he did.

3 Q. And did he at some point in time show you-all the TWIC
4 card?

5 A. Yes, sir, he did.

6 Q. Let me show you what has been previously admitted as
7 Government's Exhibit 325. Do you recognize that?

8 A. Yes, sir, I do.

9 Q. Is this the fake TWIC card that the defendant was
10 presenting on that evening during booking?

11 A. Yes, sir, it was.

12 MR. FEAZEL: Pass the witness.

13 THE DEFENDANT: No questions.

14 THE COURT: Thank you, sir. You may step down.

15 You're excused. You're free to leave.

16 Call your next witness.

17 MR. HEENAN: The United States calls Tom Hathaway.

18 THE COURT: Raise your right hand and be sworn.

19 You swear that the testimony you're about to give
20 in the case on trial will be the truth, the whole truth, and
21 nothing but the truth?

22 THE WITNESS: I do.

23 THE COURT: Have a seat, please.

24 - - - - -

1 **THOMAS WALTER HATHAWAY, GOVERNMENT'S WITNESS, TESTIFIED:**

2 **DIRECT EXAMINATION**

3 BY MR. HEENAN:

4 Q. Good afternoon, sir. Could you please state your name and
1 2 : 4 5 5 spell it for the record, please?

6 A. My name is Thomas Walter Hathaway, T-H-O-M-A-S; Walter,
7 W-A-L-T-E-R; and Hathaway, H-A-T-H-A-W-A-Y.

8 Q. Sir, I would just ask you to speak slowly for the court
9 reporter's sake.

1 2 : 4 6 10 How are you employed, Mr. Hathaway?

11 A. I'm employed at the headquarters of the Transportation
12 Security Administration in Arlington, Virginia, as the
13 operations manager of the TWIC program.

14 Q. How long have you been employed by the Transportation
1 2 : 4 6 15 Security Administration?

16 A. Six and a half years.

17 Q. And how long have you been employed in the TWIC operations
18 center?

19 A. Six and a half years on the TWIC program.

1 2 : 4 6 20 Q. What are your current job responsibilities?

21 A. I oversee the national enrollment services for TWIC and the
22 issuance of cards; I manage cases with security threat
23 assessments and just do general administrative work overseeing
24 the overall operations nationwide.

1 2 : 4 6 25 Q. And with respect to the TWIC, what does that stand for,

1 "TWIC"?

2 A. Transportation Worker Identification Credential.

3 Q. Now, could you just tell the Court a little bit about the
4 program and why TSA has the TWIC program?

5 A. The TWIC program was established around 2002 to meet a
6 mandate of the Maritime Transportation Security Act of 2002.
7 The provision of the Maritime Transportation Security Act that
8 requires TWIC requires the government to conduct a security
9 threat assessment and issue a biometric enabled credential to
10 anyone who requires secure or requires unescorted access to
11 secure areas of maritime facilities that are regulated by the
12 Coast Guard, as well as vessels. And also there's a
13 requirement for all licensed merchant mariners to hold a TWIC.

14 Q. Is the Port of Houston a port that would require workers of
15 that port to possess and use TWIC cards?

16 A. Yes.

17 Q. And is the possession/use of a TWIC card a prerequisite for
18 getting entry to the port for someone traveling there?

19 A. Yes, in order to have unescorted access.

20 Q. I think you indicated, sir, that you are familiar with the
21 enrollment process for how someone could obtain a TWIC card if
22 they wanted to. Could you please describe for the Court that
23 enrollment process?

24 A. The enrollment process involves a person physically
25 appearing at one of 135 enrollment centers that we have around

1 the country. The person must provide biographical
2 information -- excuse me.

3 Q. Is there an enrollment center in the Houston area?

4 A. Yes, there is.

5 Q. Where is that located?

6 A. Turning Basin.

7 So, the person appears at the enrollment center,
8 provides biographical information. The person must provide
9 fingerprints that are captured electronically, sit for a
10 digital photograph. The person must fill out a disclosure form
11 revealing any prior criminal history or emigration status.

12 Q. Is there a citizenship requirement for a TWIC card?

13 A. Yes, there is. A person, to obtain a TWIC, must be a US
14 citizen or lawful permanent resident.

15 There are classes of non-immigrate aliens who are
16 allowed to possess a TWIC, depending on their authorization to
17 work in the United States.

18 Q. Now, with respect to the various items you mentioned that
19 are submitted, you also said, I think, there's a biometric
20 component to the card. What is that?

21 A. The fingerprints are captured in enrollment, and two
22 fingerprints from the 10 that are captured are digitally
23 encoded and loaded onto the chip of the card, the integrated
24 circuit chip of the card.

25 Q. So, every TWIC card has an integrated circuit chip on it

12:49 1 that contains that information?

2 A. Yes.

3 Q. Is there additional information that's contained on that
4 chip?

12:50 5 A. Yes, there is. The name of the individual is contained,
6 but no other personal information, the name and the photograph.

7 Q. Now, with respect to the information contained on the chip
8 and the card, is there a database that's maintained by the TSA
9 where authorized TWIC user's names and information are

12:50 10 contained?

11 A. Yes. We have a central database that contains all of the
12 enrollment records. We have just over 2 million enrollment
13 records at this time.

14 We also have another database that contains all
12:50 15 the information pertaining to the security threats assessments.

16 Q. Now, you mentioned at the enrollment center there is a
17 variety of things that are done as an initial matter, including
18 disclosure of criminal history, providing fingerprints. What
19 happens after that information is collected? Is a card issued
12:50 20 at that point?

21 A. No. The information from the enrollment record is
22 transmitted to the central database. The information is parsed
23 out to the -- there are four elements of the security threat
24 assessment, and the information is sent out to those sources.

12:51 25 We receive information back, conduct an

12:51 1 assessment of the responses received, and decide whether the
2 person is eligible to hold a TWIC or not. After that, once a
3 person is determined to be eligible, a card order is placed.
4 The card is produced and shipped back to the enrollment center,
12:51 5 where the person must return to pick it up.

6 Q. Now, if a person is determined eligible to obtain a TWIC
7 card, how much time will typically take place for that
8 determination to be made?

9 A. It depends upon the responses that come back to the
12:51 10 security threat assessment for analysis. But it -- it can be
11 as short as four days and as long as a month before we either
12 approve or send a response to the person, saying they have to
13 provide us additional information.

14 Q. Now, with respect to picking up the card, I think you
12:52 15 mentioned they have to return to the enrollment center to pick
16 it up?

17 A. Yes. The person must appear at the enrollment center. One
18 of the requirements for a chain of trust in the whole system is
19 that we must be assured that the person that we're issuing the
12:52 20 card to is the person who enrolled. So, at the enrollment
21 center, the person matches one of the two fingers that have
22 been selected to be loaded onto the chip, matches that against
23 the fingerprint template that's stored on the card. If there's
24 a match, then we can go forward. We're assured that that is
12:52 25 the person.

12:52 1 Q. So, there's an actual determination that the person picking
2 up the card has the same fingerprint that matches what's
3 encoded on the chip?

4 A. Correct. The person also must provide an identity
12:52 5 document, a photo -- a government-issued photo ID before we
6 actually pull the card from the safe.

7 Q. And is this a process that is in place at all of the
8 enrollment centers that TSA sponsors throughout the country?

9 A. Yes.

12:53 10 Q. Must the applicant also select a PIN for the card, a
11 Personal Identification Number?

12 A. Yes. At activation, the person selects a six, seven, or
13 eight digit PIN.

14 Q. When is that selection made?

12:53 15 A. Before the card is actually activated, before some digital
16 certificates are loaded onto the card. The person enters it on
17 a keypad, and it gets loaded onto the chip.

18 Q. And does that activation occur at the enrollment center
19 when the applicant has returned to pick it up?

12:53 20 A. Yes.

21 Q. Mr. Hathaway, I would like to show you what has been marked
22 and admitted into evidence as Government's Exhibit 325.

23 Sir, could you look that over and tell me what
24 that is?

12:54 25 A. It's a fake TWIC card.

1 Q. And are there any indicia on there that suggest to you that
2 it is fake?

3 A. The color is slightly different. There is no holographic
4 laminate on the front surface of the card. There's no laminate
5 on the back of the card, which covers from below the magnetic
6 stripe here down to the bottom of the card.

7 There's a bar code at the top of the card, on the
8 back, on a -- an authentic TWIC. That bar code is laser etched
9 into the card. This one here is printed.

10 Q. Does it appear to have an actual functioning computer chip
11 on the card?

12 A. No, there is no chip in the card.

13 Q. Thank you, sir.

14 Now, also with respect to this item, at a
15 distance of perhaps 15 feet, might it appear to be a real TWIC
16 card?

17 A. Yes.

18 Q. Mr. Hathaway, I just want to direct your attention briefly
19 to the screen, showing you what has been admitted into evidence
20 as Government's Exhibit 226. I'll ask you, sir, does this
21 depict an enrollment center for TWIC card purposes?

22 A. No.

23 Q. And with respect to the rock that's located in the middle
24 of the picture, the white rock, is that an item which a TWIC
25 card would typically be contained in when an applicant picks up

1 the card from an enrollment center?

2 A. No.

3 Q. Same question with respect to that rock depicted in
4 Government's Exhibit 227, which is admitted in evidence; is
5 that something which a TWIC card would be contained in at an
6 enrollment center?

7 A. No.

8 Q. Showing you Government's Exhibit 228, admitted in evidence,
9 same question. Appears to be the same rock. Is that an item
10 that the -- a TWIC card would be contained in at an enrollment
11 center anywhere in this country?

12 A. No.

13 Q. And, Mr. Hathaway, you mentioned the databases that contain
14 the information for all authorized TWIC cardholders. Have you
15 conducted an examination of that database and done a query for
16 whether or not there is a Paul Mexia, M-E-X-I-A, contained in
17 that database and listed as an authorized TWIC holder?

18 A. I have done a search, and there is no Paul Mexia in the
19 database.

20 Q. When did you conduct that search?

21 A. I've conducted it a couple of times. First time
22 approximately two weeks ago; and the last time, I just did it
23 this past weekend.

24 Q. And I would ask you the same question, sir, with respect to
25 the name Barry Walter Bujol. Is there anyone listed in the

1 TWIC database for TWIC authorized users with the name of Barry
2 Walter Bujol?

3 A. No.

4 Q. And, sir, is there anyone who is an authorized TWIC holder
5 in the United States who would not be listed in that database?

6 A. No.

7 Q. Thank you, sir.

8 MR. HEENAN: No further questions. Pass the witness,
9 your Honor.

10 THE COURT: Questions?

11 **CROSS-EXAMINATION**

12 BY THE DEFENDANT:

13 Q. I just want to go back to the fake TWIC. Would the TSA,
14 who issues the TWIC, ever issue a card like that?

15 A. No.

16 THE DEFENDANT: No further questions.

17 THE COURT: Anything further from the government?

18 MR. HEENAN: Nothing further from the government, sir.

19 THE COURT: Thank you, sir. You may step down.

20 You're excused. You're free to leave.

21 Call your next witness.

22 MR. McINTYRE: The United States would call Task Force
23 Officer Sean McCarroll.

24 THE COURT: Raise your right hand, be sworn.

25 You swear the testimony you're about to give in

1 the case now on trial will be the truth, the whole truth, and
2 nothing but the truth?

3 THE WITNESS: I do.

4 THE COURT: Have a seat, please.

5 How long is this witness going to take?

6 MR. McINTYRE: I'm thinking probably 30 minutes, your
7 Honor. And then we have one other witness that's probably
8 going to take about an hour.

9 THE COURT: Okay. I'm in no rush. And -- it's moving
10 along fine. It's now right at 1:00 o'clock. You want to --
11 why don't we get into it a little bit, and then we'll take our
12 break to 2:15. We'll get into it five or ten minutes, and take
13 a break. Okay?

14 MR. McINTYRE: Yes, your Honor.

15 THE COURT: Get as much time as we can.

16 **SEAN D. MCCARROLL, GOVERNMENT'S WITNESS, TESTIFIED:**

17 **DIRECT EXAMINATION**

18 BY MR. McINTYRE:

19 Q. Can you state your name for the record, please?

20 A. Yes. Sean D. McCarroll, S-E-A-N, D, M-C-C-A-R-R-O-L-L.

21 Q. And, Mr. McCarroll, where are you currently employed?

22 A. With the Brazos County Sheriff's Office.

23 Q. And what is your job title with the sheriff's office?

24 A. I'm an investigator.

25 Q. And how long have you been an investigator with the Brazos

12:59

1 County Sheriff's Office?

2 A. Little over four years.

3 THE COURT: How long have you been with the Brazos
4 County Sheriff's Department.

12:59

5 THE WITNESS: Little over 15 years.

6 BY MR. MCINTYRE:

7 Q. And what does an investigator for the Brazos County
8 Sheriff's Office do?

9 A. Investigate crimes against the State of Texas.

12:59

10 THE COURT: Pull the mike in a little bit, please.

11 Okay.

12 BY MR. MCINTYRE:

13 Q. And jurisdictionally or geographically, where is Brazos
14 County?

01:00

15 A. It is -- well, it's where Texas A & M University is.

16 Q. Okay. And how long have you been associated with the Joint
17 Terrorism Task Force that operates in Bryan, Texas?

18 A. Since 2007.

19 Q. And what is your title with the Joint Terrorism Task Force?

01:00

20 A. I'm a task force officer.

21 Q. And what do task force officers with the Joint Terrorism
22 Task Force investigate?

23 A. Investigate matters of terrorism, counterterrorism.

24 Q. Now, you said, in addition to being an investigator with

01:00

25 the Brazos County Sheriff's Office, you had 15 other years with

01:00

1 that office. Is that correct?

2 A. Yes. I've had 15 years total with Brazos County Sheriff's
3 Office.

01:00

4 Q. In addition, to being an investigator, what sort of job
5 titles have you held during that 15-year period?

6 A. I started off as a jailer, also worked as a patrol deputy,
7 also a narcotics investigator, and then into investigations.

8 Q. And during that time period, have you had few or many
9 opportunities to investigate criminal offenses?

01:01

10 A. Many.

11 Q. Have you attended any college?

12 A. Yes, I have.

13 Q. And where did you attend college?

14 A. Texas A & M University.

01:01

15 Q. And have you graduated from Texas A & M University?

16 A. I have.

17 Q. What year did you graduate, and what was the -- what was
18 your degree in?

19 A. I graduated 2001 with a political science degree.

01:01

20 Q. When and how did you become involved in the case that's
21 before the Court today?

22 A. I believe it was probably late July 2008, maybe into
23 August; and I was assigned as a co-case agent with Special
24 Agent Bryan Cannon.

01:02

25 Q. And since that time period, have you expended a lot of time

01:02 1 and resources along with the co-case agent, Bryan Cannon, in
2 investigating this case?

3 A. Yes.

4 Q. And Mr. Cannon has previously testified in this case. And
01:02 5 a lot of the testimony that he referenced, is it fair to say
6 that you also participated in those activities, along with
7 Mr. Cannon?

8 A. Yes.

9 Q. Now, I'm not going to ask you about all the things that
01:02 10 Agent Cannon testified to previously; but I am going to ask you
11 about May 30th of 2010, when Mr. Bujol was arrested out at the
12 port. Okay?

13 A. Yes.

14 Q. Now, at the time that Mr. Bujol was arrested, where were
01:02 15 you located physically within the port?

16 A. I was at the command post, which was -- as you enter the
17 gate, it would be behind some buildings within port.

18 Q. And were you able to observe things via video cameras or
19 other electronic means during the time period that the activity
01:03 20 was occurring in the port, regarding Mr. Bujol?

21 A. Yes, I was.

22 Q. And who was with you in the command center at the time that
23 Mr. Bujol was arrested?

24 A. Special Agent Bryan Cannon, among others.

01:03 25 Q. And after Mr. Bujol was arrested, do you know what happened

01:03

1 to Mr. Bujol?

2 A. He was transported to the FBI headquarters in Houston.

3 Q. And at some point did you and Co-case Agent Cannon approach
4 Mr. Bujol about interviewing him?

01:03

5 A. Yes.

6 Q. And do you recall approximately what time that would have
7 been?

8 A. It was probably around 5:30 a.m.

9 Q. Now, before you begin the substantive interview, did you
10 ask him -- did you inform him of his rights and ask him if he
11 wished to waive those rights?

01:04

12 A. Yes.

13 Q. Let me show you what is marked as Government's Exhibit 309
14 and ask you if you recognize that. And this has been
15 previously admitted.

01:04

16 A. Yes, I do recognize it.

17 Q. And in the upper right-hand corner, there's a title
18 regarding "Place." And what does it say the place is?

19 A. Houston, Texas.

01:04

20 Q. And what is the date?

21 A. May 30, 2010.

22 Q. And what is the time?

23 A. 0541, which is 5:41 a.m.

24 Q. And, then, below that, as we scroll down, it lists the
25 rights. Did you and/or Agent Cannon inform Mr. Bujol of his

01:04

01:04

1 rights, in writing and also verbally?

2 A. Yes.

3 Q. And did he indicate that he wished to waive those rights?

4 A. Yes, he did.

01:04

5 Q. And did you ask him for a signature to acknowledge that he
6 was waiving those rights?

7 A. Yes.

8 Q. And can you tell the Court where Mr. Bujol signed this
9 document, waiving those rights?

01:05

10 A. Underneath the "I have read this statement of my rights,"
11 there's a place that said "Signed" and an "X"; and that's
12 Mr. Bujol's signature.

13 Q. And, then, to the left, there's a couple of spaces for
14 witnesses and then also another place for a time to be written
15 in. Is that correct?

01:05

16 A. That's correct.

17 Q. And in the first witness signature blank, who signed as a
18 witness?

19 A. I did.

01:05

20 Q. And in the witness signature blank just below that, who
21 signed in that particular place?

22 A. Agent Cannon.

23 Q. And then, again, the time is 5:41. Is that correct?

24 A. That's correct.

01:05

25 Q. Now, after Mr. Bujol waived his rights -- or actually maybe

01:05 1 even before that, did he make an acknowledgment when he saw you
2 and Agent Cannon walk into the room?

3 A. Yes, he did.

4 Q. What did Mr. Bujol tell you and Agent Cannon as you walked
01:06 5 into the room?

6 A. He said, "Good job" and "Long time no see."

7 Q. And based on your understanding of the case, what do you
8 think Mr. Bujol's reference was to "long time no see"?

9 A. I believe that was in reference to the first interview we
01:06 10 had with him in New Jersey in 2009. I'm sorry. 2010.

11 No. It was 2009. I'm sorry.

12 Q. In 2010. Is that correct?

13 A. Two -- yes. I'm sorry, March 2010. I'm -- no. No, no,
14 no. Let me correct. March 2009, yes.

01:06 15 THE COURT: So, it's 2009?

16 THE WITNESS: Yes, sir.

17 THE COURT: That's the year?

18 THE WITNESS: Yes, sir, 2009.

19 THE COURT: All right.

01:06 20 BY MR. MCINTYRE:

21 Q. So it had been over a year since he had seen you. Is that
22 correct?

23 A. Yes, it is.

24 Q. But based on your perception of how he reacted and what he
01:06 25 said, you understood him to acknowledge that he recognized you

01:06

1 and Agent Cannon. Is that right?

2 A. Yes.

3 Q. Now, I'm just going to ask you about portions of the
4 interview, because it was a lengthy interview. Is that

01:07

5 correct?

6 A. That's correct.

7 Q. And approximately how long was the interview?

8 A. It was approximately four hours.

9 Q. And was the defendant allowed to take prayer and/or
10 restroom breaks during that time period?

01:07

11 A. Yes, he was allowed to take both.

12 Q. And was he offered any sort of food or drink?

13 A. Yes, he was. He was given a water.

14 Q. Now, after this acknowledgment when you walked into the
15 room with Agent Cannon, was the defendant confronted with some
16 information or evidence regarding an Awlaki CD?

01:07

17 A. Yes. Agent Cannon asked him -- or brought up the previous
18 interview we had with him in New Jersey and brought up the fact
19 about the "Hereafter" CD by Anwar Awlaki.

01:07

20 Q. And what was that particularly subtitled "After the
21 Hereafter," the Awlaki CD you're referencing, that came up in
22 the previous interview?

23 A. Yes. It was "The Importance of Death" or "The Importance
24 of Akhirah - Death."

01:08

25 Q. And when Agent Cannon questioned him about that, what was

01:08

1 Mr. Bujol's response to Agent Cannon?

2 A. Well, he said, "Listening to it would open your eyes."

3 Q. And when the defendant said "it would open your eyes,"
4 whose eyes was he referring to?

01:08

5 A. I believe he meant the interviewing agents and the world,
6 if anybody listened to it.

7 Q. Now, also a little bit later in the interview, was
8 Mr. Bujol questioned about how he got out to the port --

9 A. Yes.

01:08

10 Q. -- and how he got onto the boat?

11 A. Yes, he was.

12 Q. And what did Mr. Bujol tell you regarding how he got out to
13 the boat and out to the port?

14 A. He maintained that he did not know. He said he got a ride
15 from someone, but he would not identify who that person was.

01:08

16 Q. And did you or Agent Cannon also ask him how he even knew
17 that the boat or ship that he ultimately got on was going to be
18 there?

19 A. He -- again, he said he didn't know. He just got a ride
20 from someone.

01:09

21 Q. At some point did he make a reference to the fact it was
22 better that he not know how he got out there or how he knew the
23 ship was there?

24 A. Yes. He actually said it was best -- or it was better that
25 he did not know, but he never elaborated on what that was.

01:09

01:09

1 Q. Now, was he also asked about the fake --

2 THE COURT: Why don't we adjourn? We'll just keep
3 going. We need to take a break.

4 MR. McINTYRE: Okay.

01:09

5 THE COURT: It's now 1:10. We'll be back, ready to
6 resume, at 2:15. We'll see you at that time.

7 *(Recess was taken)*

8 THE COURT: Thank you. Be seated. Have a seat.

9 Let me ask the government. We're in no rush.

02:22

10 We're going through what? To get a second view of what
11 happened that night? Is that correct?

12 MR. McINTYRE: No, your Honor. This is the testimony
13 about the statement the defendant made after he was arrested on
14 May 30th, and that's all I'm covering. I'm not covering the
15 other stuff.

02:23

16 THE COURT: By the way, is it cool in here? Everybody
17 relatively comfortable?

18 Okay. Just this outfit I wear. I don't have a
19 feel of what it's really like to be working out there. Okay.

02:23

20 But usually if there's a jury I ask the jury, because they
21 control.

22 All right. Go right ahead, please.

23 BY MR. McINTYRE:

24 Q. Officer McCarroll, we were talking about you had asked the
25 defendant how he had arrived at the boat, how he knew about the

02:23

0 2 : 2 3 1 ship being in the port and those types of questions. And what
2 were his responses to those types of questions?

3 A. That he didn't know about the boat or how -- anything about
4 that or the person who gave him a ride there.

0 2 : 2 3 5 Q. Okay. And based on your understanding of the case, did you
6 believe that he was still trying to protect the confidential
7 source, who he believed to be an al-Qaeda operative?

8 A. Yes, I did.

9 Q. Because based on your knowledge of the case at the time,
0 2 : 2 4 10 you knew that the defendant knew exactly who had taken him to
11 the ship and driven him through the port entrance, he knew
12 exactly the identity of that person. Is that right?

13 A. That's correct.

14 Q. But, yet, when you asked him about it, he told you
0 2 : 2 4 15 something that was not truthful, which was he did not know. Is
16 that correct?

17 A. That's correct.

18 Q. And at some point did he make a statement that it was
19 better for him not to know?

0 2 : 2 4 20 A. Yes, he did.

21 Q. And what was your understanding of what he meant when he
22 said it's better not to know?

23 A. To me, it sounded like he was trying to protect the source
24 by saying --

0 2 : 2 4 25 THE COURT: Pull that in little bit.

0 2 : 2 4 1 THE WITNESS: He was trying to protector the source by
2 saying he didn't know anything about him and it was better for
3 him not to know because it would keep everything out of
4 suspicion.

0 2 : 2 4 5 BY MR. McINTYRE:

6 Q. Now, at some point during the interview -- strike that
7 question.

8 Now, as part of this operation, when the
9 defendant was arrested and taken out of the cabin in the ship,
0 2 : 2 5 10 the confidential source was also purported to be being
11 arrested. Is that correct?

12 A. That is correct.

13 Q. So, at the time you interviewed the defendant and he
14 claimed he didn't know who drove him to the port, he was under
0 2 : 2 5 15 the impression that the confidential source had also been
16 arrested. Is that right?

17 A. That is correct.

18 Q. Now, at some point during the interview, did you show the
19 defendant a couple of documents which brought about a sea
0 2 : 2 5 20 change in attitude regarding his view of the source and
21 protecting the confidential source?

22 A. Yes.

23 Q. What did you show the defendant during the interview?

24 A. He was shown the US Army Field manuals, and he was also
0 2 : 2 5 25 read some of the e-mail exchanges between the source and the

0 2 : 2 5 1 defendant.

2 Q. And at this point in time did the defendant's attitude
3 toward protecting the source change?

4 A. Yes. He actually said that he had made some mistakes and
0 2 : 2 6 5 trusted the wrong people.

6 Q. And did he also compare the source to a couple of animals?

7 A. Yes, he did. He referred to the source as a "ferret" and
8 also a "golden retriever."

9 Q. Did you also ask the defendant, when he entered the port,
0 2 : 2 6 10 if he had been asked regarding whether he had any
11 identification or that he had to show identification to the
12 guard at the port entry?

13 A. Yes. He was asked if he showed identification at the port,
14 and he said "no."

0 2 : 2 6 15 Q. Did you ask him who Paul Mexia was?

16 A. Yes, we did.

17 Q. And what did the defendant say about Paul Mexia?

18 A. He said it was a fake and a made-up name. He said he
19 actually went to the TWIC website and viewed the application
0 2 : 2 6 20 and, after viewing the application, it said that anyone with a
21 prior conviction or arrest could not get the TWIC card.

22 Q. And in the course of talking about Paul Mexia and his
23 Internet visit to the TWIC website, did he also make some
24 comment regarding getting or applying for a job at the port?

0 2 : 2 7 25 A. Yes. He actually told us that he was -- his intention was

0 2 : 2 7 1 to work at the port.

2 Q. Like, work in what capacity at the port?

3 A. To work on the docks. Possibly sweeping.

4 Q. Also during this interview, did the defendant make
0 2 : 2 7 5 reference to Donald Trump's book "The Art of the Deal"?

6 A. Yes, he did.

7 Q. And did he make a comparison between a sort of a decision
8 tree that Donald Trump described in "The Art of the Deal" and a
9 decision tree that he used about whether to engage in the
0 2 : 2 7 10 illegal operation that he was caught engaging in?

11 A. Yes. He -- he spoke of Donald Trump and "The Art of the
12 Deal" and stated that whenever Mr. Trump goes into a deal he
13 factors in the ultimate worst consequence that could occur if
14 he -- if he were to take the deal. He said if Mr. Trump were
0 2 : 2 8 15 to think that the ultimate worst consequence was okay to deal
16 with it then he would follow through with the deal.

17 Q. Okay. So, if, when you are looking at a deal or something
18 you were going to do, you determine what the worst consequence
19 is and if you can live with that, you go forward with the deal;
0 2 : 2 8 20 and, if you can't, you don't. Is that correct?

21 A. That is correct.

22 Q. And did you ask him if he applied that lesson from "The Art
23 of the Deal" to his decision to make hijrah and go overseas?

24 A. Yes. He said he factored in the consequence also in his
0 2 : 2 8 25 attempt to make hijrah, and he said that the ultimate worst

0 2 : 2 8 1 thing that could happen to him was death and that the second
2 worst thing was prison time. He was then asked was it worth
3 it, and he said "yes."

0 2 : 2 9 4 Q. So, he gave his opinion that the worst consequences were
5 death and prison time and that, even now, sitting here, he felt
6 like it was worth it to make the attempt?

7 A. Yes.

8 Q. Also during the statement that you took from the defendant,
9 did he start talking about hijrah and other convicted
0 2 : 2 9 10 terrorists and how much prison time that they had received for
11 their crimes?

12 A. Yes. He spoke of John Walker Lindh; and also he referenced
13 a guy from Illinois, which I believe he was referring to
14 Michael Curtis Finton.

0 2 : 2 9 15 Q. And let me stop you right there. Was one of the complaints
16 that he e-mailed the source, was that the Finton complaint?

17 A. Yes, it was.

18 Q. Who were John Walker Lindh and Mr. Finton?

19 A. John Walker Lindh, he's also known as the American Taliban.
0 2 : 2 9 20 He was captured overseas, in Afghanistan.

21 Q. And what sort of discussion did you have with him regarding
22 the prison time that they had received and how it applied to
23 him?

24 A. He contemplated the time that they received in prison and
0 2 : 3 0 25 what he might get, as well.

02:30

1 Q. And did he make a statement regarding his guilt?

2 A. Yes, he did.

3 Q. What --

4 A. He said --

02:30

5 Q. I'm sorry. What did he say?

6 A. Yes. When he was making a reference to that, he said that
7 he was obviously guilty of what we alleged.

8 Q. Now, also during the course of this statement, did the
9 defendant make a statement that I guess was also made famous by
10 Charlie Sheen, which is, "I'm still winning"?

02:30

11 A. Yes.

12 Q. And what did the defendant mean when he said, "I'm still
13 winning," while he was in custody for these crimes?

14 A. Well, he had said that he was not sad about the decisions
15 that he made and that he was still winning and that -- I'm
16 sorry -- that he was still winning and that we -- or us, as in
17 the interviewing agents and our constituents, our underlings,
18 John Q. Citizen and Sally Q. Soccer Mom, would be supporting
19 him while he was in jail.

02:31

20 Q. And did he make a statement that he would be allowed to
21 worship free, eat free?

22 A. He made the comment that he would be living free, that he
23 would be reading and worshiping for free.

24 Q. And that essentially he was winning because he was going to
25 cost --

02:31

02:31

1 A. The taxpayers, yes, he was going to cost the taxpayers
2 money.

3 Q. Do you see the individual that you interviewed on the night
4 of May 30th, 2010?

02:31

5 A. Yes, I do.

6 Q. And did you see him many times during the course of your
7 investigation?

8 A. Yes, I did.

9 Q. And is that the same person that's charged in the
10 indictment before the Court?

02:32

11 A. Yes, it is.

12 Q. And can you point to that person you're describing?

13 A. Yes. He's over there, in the green shirt.

14 MR. McINTYRE: May the record reflect the witness
15 identified the defendant?

02:32

16 THE COURT: The record will so reflect.

17 MR. McINTYRE: Pass the witness, your Honor.

18 THE COURT: Go right ahead, sir.

19 THE DEFENDANT: Your Honor, at this time what I have
20 is a transcript from this meeting to which has been referred;
21 and I would like to admit it as Exhibit 2.

02:32

22 MR. McINTYRE: Objection, hearsay, your Honor.

23 THE COURT: Sustained. The transcripts don't come in.
24 You can use them, and you can talk about them but -- excuse me.

02:32

25 Those kind of transcripts don't come in. But you can talk

0 2 : 3 2 1 about, ask him about it, show it to him, and that sort of
2 thing.

3 THE DEFENDANT: Well, I have the audio which
4 corresponds to this transcript; and I would like to admit that
0 2 : 3 2 5 into evidence as Exhibit 2.

6 MR. McINTYRE: Same objection, your Honor.

7 THE COURT: Why?

8 MR. McINTYRE: It's the defendant's statement.

9 THE COURT: The defendant's own statement?

0 2 : 3 2 10 MR. McINTYRE: It's not admissible. It's admissible
11 on our side because it's an admission of party opponent. But
12 it's hearsay as to him.

13 THE COURT: Well, let me ask you this. Who was
14 present at that meeting, that get-together?

0 2 : 3 3 15 THE DEFENDANT: Myself, Agent McCarroll, and Agent
16 Cannon.

17 THE COURT: Now, aside from that -- and I don't -- oh,
18 wait a second. Hold it. Hold it. I see your point. That
19 this is -- the government's case is still ongoing, correct?

0 2 : 3 3 20 MR. McINTYRE: Yes, your Honor.

21 THE COURT: Okay. The government's case -- I may
22 consider it later if he elects to testify. Is that your
23 position?

24 MR. McINTYRE: My position is even if he testified it
0 2 : 3 3 25 wouldn't be admissible. He can testify to what he said at the

0 2 : 3 3 1 time. But he's also free to cross-examine with it, but it's
2 just not admissible because --

3 THE COURT: All right. What I am going to rule is
4 this, that at this time I'm going to sustain the objection to
0 2 : 3 3 5 it coming into evidence itself based upon that. Now, if you
6 elect to testify yourself, then you can testify as to what's on
7 there. I may or I may not then let it in, or I might keep it
8 out.

9 But right at this moment, I'm not permitting it
0 2 : 3 4 10 in because this is still their case, Mr. Bujol. Okay? It's
11 still their case. But you may cross-examine the gentleman. Go
12 on.

13 THE DEFENDANT: No questions.

14 THE COURT: All right. All right. Step down. You're
0 2 : 3 4 15 excused. You're free to leave.

16 Call your next witness.

17 MR. HEENAN: Your Honor, the United States calls Evan
18 Kohlmann.

19 THE COURT: Mr. Kohlmann, please.

0 2 : 3 4 20 Raise your right hand and be sworn.

21 THE CASE MANAGER: Do you solemnly swear that the
22 testimony you're about to give in the case before the Court
23 will be the truth, the whole truth, and nothing but the truth?

24 THE WITNESS: I do.

0 2 : 3 4 25 THE COURT: Hang on one second. Go back and have a

0 2 : 3 4 1 seat.

2 THE WITNESS: Of course, your Honor.

3 THE COURT: Now, Mr. Bujol, is it your position that
4 you want to play it or you just want to get it into evidence?

0 2 : 3 4 5 THE DEFENDANT: I just want to get it into evidence.

6 THE COURT: All right. What I am going to do, then,
7 I'm going to mark it for identification purposes only. Okay?
8 I'm going to mark it. I'll allow it -- where is the disk
9 itself? You got it there? Where is it, please? You need to
0 2 : 3 5 10 get the disk. I'm going to allow it to be marked. This is --

11 By the way, after we --

12 Did you find it? You don't have to take it out,
13 put it on.

14 THE DEFENDANT: No.

0 2 : 3 6 15 THE COURT: You just want to double-check?

16 THE DEFENDANT: Yes.

17 THE COURT: Okay. I'm going to -- I'll tell you,
18 while he's doing that, he's checking it -- you can listen to
19 what I am saying, Mr. Bujol.

0 2 : 3 6 20 I'm going to have it marked -- both items marked
21 and filed with the Court at this time. I'm not admitting it
22 into evidence. But that may change his mind about having some
23 questions for the witness, in which case, I'm going to have an
24 opportunity for your witness -- what is it -- Deputy McCarroll
0 2 : 3 6 25 to retake the stand if now he has any questions for him.

02:36

1 MR. MCINTYRE: Okay.

2 THE COURT: Okay?

3 MR. MCINTYRE: Yes, your Honor.

02:37

4 THE COURT: So, we'll give him -- let's do it that way
5 for right now.6 By the way, Mr. Bujol, you have time. We're in
7 no rush. Go through the stack and get me the disk. Because
8 you're going to have to do that anyhow, whether you use it or
9 not or get it into evidence or not. We got plenty of time.

02:38

10 Come up here for a second. While we're doing
11 this, I'm going to look at something else.12 *(Court confers with court staff)*

13 THE COURT: Is that it?

14 THE DEFENDANT: Yeah.

02:39

15 THE COURT: Okay. If you would -- all right. I'm
16 going to ask now that the -- and we will, we'll do it for
17 you -- that the disk itself be marked Defendant's Exhibit 2,
18 the transcript be marked as Defendant's Exhibit 3. They're
19 marked for identification.

02:39

20 They'll be kept in the file with the
21 understanding, Mr. Bujol, if there are other grounds later
22 on -- and keep in mind you're not required to put any evidence
23 on yourself. Okay? But if you elect to do so and it becomes
24 relevant, I would be glad to reconsider it going into evidence.
02:39 25 Okay?

02:39

1 THE DEFENDANT: Okay.

2 THE COURT: All right. So, do you have them
3 segregated?

02:39

4 Now, do you want the witness back on the stand
5 now, now that we have that marked?

6 THE DEFENDANT: Yeah.

7 THE COURT: Yes, sir.

8 THE DEFENDANT: Yes, please, your Honor.

9 THE COURT: Yes, sir.

02:40

10 Why don't you retake the stand?

11 So, this is Deputy Sean McCarroll retaking the
12 stand.

13 Go right ahead, then.

14 **CROSS-EXAMINATION**

02:40

15 BY THE DEFENDANT:

16 Q. During the course of this interview, do you recall the
17 topic of the Jihad Fields posts being discussed?

18 A. I can remember some of that, yes.

02:40

19 THE COURT: Mic, please. You're not carrying now.
20 Pull it in.

21 THE WITNESS: I'm sorry.

22 THE COURT: That's all right.

23 BY THE DEFENDANT:

02:40

24 Q. Do you remember anything with respect to the defendant's
25 comments on those postings or what did he have to say about

02:40 1 them?

2 A. (No response).

3 Q. If you don't recall, that's fine.

4 A. Let's see. I do remember that you were asked about a
02:41 5 specific question. I believe it was Posting Number 5 on Jihad
6 Fields. And it was read to you as, "What can English-speaking
7 Muslims do to support jihad or to help?" And then I think
8 another one was referenced to -- that you didn't get the reply
9 that you wanted, and then you said that -- that it was -- that
02:41 10 people have a right to know things and it's un-American to tell
11 people what they can't read or write.

12 Q. On what charges was the defendant arrested on the night of
13 May 30th?

14 A. Let's see. Misuse of Social Security number, false
02:41 15 statements, conspiracy to use the identifying information of
16 another person.

17 Q. And prior to the start of this interview, was he informed
18 of these charges?

19 A. Yes, he was.

02:42 20 Q. Was he informed of any other charges?

21 A. No, he wasn't.

22 Q. Did he ever explain what he was doing at the port?

23 A. Well, again, you said you didn't -- you got a ride to the
24 port, that you didn't know who took you, and that you were
02:42 25 going to get possibly a job at the port.

02:43

1 Q. So, if I understand you correctly, you interpreted my
2 statements to mean that I wanted a job that night or I told you
3 I wanted a job that night at the port?

4 A. I don't know if it was that night or what.

02:43

5 Q. But I said -- you're saying that I said I wanted a job at
6 the Port of Houston?

7 A. You said something about a job at the port and working the
8 docks.

02:43

9 Q. Was the defendant ever asked to explain prior attempts to
10 travel, throughout the course of this interview, to explain the
11 circumstances surrounding his current attempts to travel?

12 A. I don't remember if you were asked to explain the prior
13 trips, no.

14 Q. Do you remember them ever being explained?

02:44

15 A. No.

16 Q. Did the defendant tell you that he didn't know who it was
17 that brought him to the port? That's correct?

18 A. That is correct.

02:45

19 Q. Over the course of this investigation, did the defendant,
20 to the best of your recollection, ever refer to the CHS by his
21 name?

22 A. Through the course of the investigation?

02:45

23 Q. Yes. Through the course of conversation between the CHS
24 and the defendant, did the defendant every reference the CHS by
25 his name?

02:45

1 A. Not to my knowledge, no.

2 Q. Further, when they communicated via e-mail, would the CHS
3 always use the same name and the same e-mail account?

4 A. The same name in the e-mail account?

02:46

5 Q. The same name and --

6 A. "And."

7 Q. -- the same e-mail account?

8 A. I think there may have been two e-mail accounts that the
9 CHS used.

02:46

10 Q. And were they the same names?

11 A. No. They're -- I don't know what you mean by "names."

12 Q. Well, typically when a person has an e-mail account, there
13 has to be a name associated with that account.

14 A. Okay. That, I don't know.

02:46

15 Q. And the address is -- the address is different, but the
16 name on the account is -- what is that name that's being used?

17 A. That, I don't know.

18 Q. Do you remember Agent Cannon, in the course of this
19 meeting, mentioning, describing, and defining the term "jihad"?

02:47

20 A. In the course of the interview?

21 Q. This interview.

22 A. Okay. Could you repeat that one more time?

23 Q. Do you recollect Agent Cannon mentioning, describing, and
24 defining the term "jihad"?

02:47

25 A. I believe what he said is jihad had multiple meanings and

02:47

1 that he believed your definition of jihad was to travel
2 overseas and fight.

3 Q. Does the definition of "jihad" involve traveling?

4 A. Well, my definition of "jihad" means it's just a struggle.

02:48

5 Q. So, that could be any kind of struggle?

6 A. It could.

7 Q. Did you recall Agent Cannon discussing how he had made
8 mistakes with respect to some of his assumptions about the
9 defendant?

02:48

10 A. Yes, I remember him stating that.

11 Q. And in what respect?

12 A. I have no idea.

13 Q. What --

14 A. I cannot speak for Agent Cannon. I have no idea.

02:48

15 Q. When he stated that he had made mistakes in some of his
16 assumptions, to what was he referring?

17 A. I do not know. You would have to ask Agent Cannon. I
18 cannot speak for him.

02:49

19 Q. Are you familiar with a document "42 Ways of Supporting
20 Jihad"?

21 A. Yes, I am familiar with it.

22 Q. Do you recall where the agent mentioned this document in
23 regards to a person needing a cover story?

24 A. Yes, it seems familiar.

02:49

25 Q. The document is purported to state that a cover story is

02:49

1 needed.

2 A. That, I don't recall.

3 Q. Okay. When you talked about the defendant's comments with
4 respect to "The Art of the Deal" and this factoring into

02:50

5 decisions, did he elaborate on what exactly it was, the
6 decision, that he was talking about?

7 A. Well, the context of the interview was about making hijrah;
8 and that's what we were referring to in "The Art of the Deal."

9 Q. And did he also elaborate on how he could make -- meet
10 death in the course of hijrah?

02:50

11 A. Yes, he did.

12 Q. And what did he say?

13 A. The defendant said that he was willing to accept death --

14 Q. No.

02:50

15 A. -- in the course of hijrah.

16 Q. I asked did he elaborate on how he could possibly meet
17 death.

18 A. I believe the defendant said that he could be killed in an
19 engine room, for example.

02:51

20 Q. Did he say "killed in an engine room"?

21 A. I don't know. I don't know for sure.

22 Q. How could someone -- in your understanding, how could
23 someone be killed in an engine room?

24 A. They were your words.

02:51

25 Q. Do you recall also discussing when you said at which point

0 2 : 5 1 1 the defendant became aware that there was a CHS in the
2 investigation you said you showed some e-mails. Was one of
3 those e-mails an e-mail of al-Jisr, or the e-mail about
4 elephants?

0 2 : 5 1 5 A. Yes.

6 Q. Okay. And do you remember the agent stating that a word
7 was underlined in that e-mail?

8 A. I don't recall that, no.

9 Q. Was the defendant ever asked to define "hijrah"?

0 2 : 5 2 10 A. Yes, I believe so.

11 Q. And did he give a response?

12 A. The only response I can remember is that you defined it as
13 a freedom.

14 Q. Was the defendant ever asked to define "jihad"?

0 2 : 5 2 15 A. Yes.

16 Q. And did the defendant, in this interview, define the term
17 "jihad"?

18 A. I don't remember that.

19 Q. Do you recall the defendant making statements like
0 2 : 5 3 20 "congratulations," "good job," "job well done," things like
21 that?

22 A. Yes.

23 Q. And you asked him to explain what he meant, correct?

24 A. I believe so.

0 2 : 5 3 25 Q. Did he mention something about you put in a lot of

02:53 1 effort -- something along the lines of you put in a lot of
2 effort for one unimportant person?

3 A. Maybe so, yes.

4 Q. So, it was more of a -- would you say, with that taken into
02:54 5 consideration, a remark of sarcasm on the part of the
6 defendant?

7 MR. MCINTYRE: Objection, calls for speculation.

8 THE COURT: Sustained, sustained as to the form of the
9 question.

02:54 10 BY THE DEFENDANT:

11 Q. Did the agent also talk with the defendant about his
12 research into prior sting operations -- about the defendant's
13 research into prior sting operations and it's subsequent effect
14 on this investigation?

02:55 15 A. In the interview, you mean?

16 Q. Yes, sir.

17 A. I do not remember that, no.

18 Q. You don't remember or it wasn't discussed?

19 A. I don't remember if it was discussed.

02:55 20 Q. But you said the defendant referred to Michael Curtis
21 Finton in the interview. Is that correct?

22 A. That is correct. And it was in reference to the
23 contemplation of the amount of time they received in jail, not
24 the actual stings that were used or not used against them.

02:56 25 Q. The agent also mentioned the video entitled --

02:56

1 THE COURT: By "the agent," which agent?

2 THE DEFENDANT: I'm referring to Agent Cannon.

3 THE COURT: Okay.

4 BY THE DEFENDANT:

02:56

5 Q. With regards to the video entitled "For My Wife," there
6 were pictures and the words "hijrah" superimposed over those
7 pictures. Do you recall something like that?

8 A. Actually, I don't -- I don't remember the "hijrah" part,
9 no. The only thing I remember, that Agent Cannon mentioned,
10 was that there was a picture of the mujahideen holding weapons.

02:56

11 Q. Okay. So, when the defendant said the statement he was
12 guilty to -- he would be guilty to what was being alleged, what
13 was being alleged at that point in time?

14 A. In the interview at that time we had discussed jail time,
15 hijrah, I believe the -- the Finton and John Walker Lindh; and
16 then you discussed your hijrah and that you were obviously
17 guilty of the crimes we alleged.

02:57

18 Q. The defendant -- what charges or allegations were brought
19 the night of this interview?

02:58

20 MR. McINTYRE: Objection, it's already been answered,
21 your Honor.

22 THE COURT: That's sustained.

23 THE DEFENDANT: No further questions.

24 THE COURT: Thank you. Anything further from the
25 government?

02:58

0 2 : 5 8 1 MR. MCINTYRE: No, your Honor.

2 THE COURT: Thank you. Now you may step down.

3 THE WITNESS: Thank you.

4 THE COURT: I noted that Mr. Bujol was using the

0 2 : 5 8 5 document that's marked, I think, Exhibit 3 as a part-time

6 reference for that cross-examination. So, I'm glad you were

7 able to use it for that purpose.

8 Call your next witness.

9 I'm sorry. We've already sworn the witness.

0 2 : 5 8 10 What's his name?

11 MR. HEENAN: Yes, your Honor, Evan Kohlmann.

12 THE COURT: Mr. Kohlmann, please.

13 You've already been sworn. Have a seat.

14 THE WITNESS: Thank you, your Honor.

0 2 : 5 9 15 THE COURT: By the way, Mr. Bujol, make sure you keep

16 those -- the disk and that transcript segregated somewhere,

17 because eventually we got to get it in the record. Okay?

18 All right. Go right ahead.

19 **EVAN F. KOHLMANN, GOVERNMENT'S WITNESS, TESTIFIED:**

20 **DIRECT EXAMINATION**

21 BY MR. HEENAN:

22 Q. Good afternoon, sir. Could you please state your name and

23 spell it for the record?

24 A. Of course, my name is Evan F. Kohlmann, E-V-A-N, F,

0 2 : 5 9 25 K-O-H-L-M-A-N-N.

02:59

1 Q. What do you do for a living?

2 THE COURT: Again, how do you spell your last name?

3 THE WITNESS: Excuse me, your Honor. It's

4 K-O-H-L-M-A-N-N.

02:59

5 BY MR. HEENAN:

6 Q. Mr. Kohlmann, what do you do for a living?

7 A. I work as an international terrorism consultant.

8 Q. And how long have you worked as an international terrorism
9 consultant?

02:59

10 A. Approximately the last nine years.

11 Q. Do you have a college degree?

12 A. Yes, I do. I have a Bachelor in the science of foreign
13 service from the Edmond A. Walsh School of Foreign Service at
14 Georgetown University in Washington, DC.

03:00

15 Q. And what was the degree you obtained at that school?

16 A. I have a degree in international politics with a focus in
17 international security studies. I also have a second degree
18 from Georgetown, from The Center for Muslim-Christian
19 Understanding, in Islam and Muslim Christian Understanding.

03:00

20 THE COURT: Is that a second Bachelor's or a
21 certificate or --

22 THE WITNESS: It is a certificate, your Honor.

23 THE COURT: A certificate of specialty?

24 THE WITNESS: That's correct, your Honor. The Center
03:00 25 for Muslim-Christian Understanding is one of four programs

03:00 1 within the -- in Georgetown University that offers that.

2 THE COURT: When did you get that last degree?

3 THE WITNESS: Both degrees were earned in 2001, your
4 Honor.

03:00 5 THE COURT: Thank you.

6 BY MR. HEENAN:

7 Q. And, Mr. Kohlmann, did you complete a thesis prior to
8 graduating in 2001?

9 A. I did.

03:00 10 Q. And what was that thesis on?

11 A. It was an honors thesis for honors in international
12 politics. And the title of the thesis was "The Legacy of the
13 Arab Afghans, a Case Study."

14 Q. Mr. Kohlmann, you have a graduate degree?

03:00 15 A. I do.

16 Q. What is your graduate degree?

17 A. I have a Juris Doctor, or a graduate law degree, from the
18 University of Pennsylvania Law School in Philadelphia,
19 Pennsylvania.

03:01 20 Q. And did you continue your studies of international
21 terrorism during the time that you obtained that law degree?

22 A. I did. While in law school, in addition to taking classes
23 in the law school on subjects such as cybercrime and terrorism
24 in democracy, I also took classes outside in the graduate
03:01 25 School of Arts and Sciences --

03:01

1 THE COURT: Slow down a little bit.

2 THE WITNESS: Sorry, your Honor.

3 A. -- in subjects such as Afghanistan and Islamism.

4 BY MR. HEENAN:

03:01

5 Q. Sir, are you familiar with a group called The Investigative
6 Project?

7 A. Yes, I am.

8 Q. What is that?

9 A. The Investigative Project is a think-tank and policy group
10 that was set up in 1995 in Washington, DC, by a former CNN
11 journalist. The purpose of The Investigative Project was to
12 service as a watchdog group with regards to international
13 terrorism --

03:01

14 THE COURT: Slow down, please. Slow down.

03:01

15 THE WITNESS: Sorry, your Honor. I apologize.

16 THE COURT: We got time. No rush. Go on.

17 THE WITNESS: The purpose of the think-tank was to
18 study the communications, financing, history, infrastructure of
19 international terrorist organizations with a focus on groups
20 like al-Qaeda, Hamas, Hezbollah, et cetera.

03:02

21 BY MR. HEENAN:

22 Q. And did you work there, at The Investigative Project?

23 A. I did.

24 Q. For how long?

03:02

25 A. I began working there in February of 1998. I ended my term

03:02 1 there in December of 2003.

2 Q. How are you currently employed, Mr. Kohlmann?

3 A. I am currently employed -- I run my own business known as
4 Flashpoint Global Partners. We provide consulting services to
03:02 5 government agencies, foreign governments, think-tanks, media
6 organizations.

7 I'm also employed by NBC News, MSNBC, as an
8 on-air terrorism analyst; and I serve a role at NBC in such
9 that I provide NBC with access to original materials produced
03:02 10 by international terrorist organizations, in other words, video
11 recordings, audio recordings, magazines, websites, original
12 interviews, that kind of thing.

13 Q. And when you talk about the consulting services -- I think
14 you touched on it a little bit -- but what specifically -- what
03:03 15 sort of subject matter do you provide consulting services on?

16 A. Sure. I provide consulting services on the financing,
17 communications, infrastructure, leadership of al-Qaeda
18 primarily but a variety of groups that are interlinked with
19 al-Qaeda, including al-Qaeda's global affiliates that roughly
03:03 20 constitute what I describe as the "global jihadi movement."

21 Q. And what are some of those affiliates, in addition to
22 al-Qaeda, that comprise the global jihadi movement?

23 A. Well, you have the official al-Qaeda affiliates, such as
24 al-Qaeda in the Arabian Peninsula, al-Qaeda in the Islamic
03:03 25 Maghreb, the Islamic State of Iraq.

03:03 1 But there are other groups aside from that, that
2 are not official al-Qaeda affiliates, but function as al-Qaeda
3 affiliates. This would include groups like Shabaab
4 al-Mujahideen, the Mujahideen Youth Movement in Somalia,
03:04 5 et cetera.

6 Q. How long ago was Flashpoint Global Partners founded, your
7 firm?

8 A. It was initially founded in 2003 as GlobalTerrorAlert.com,
9 and then it became Flashpoint about three years ago.

03:04 10 Q. And does your firm or do you operate a website?

11 A. I do.

12 Q. What is the purpose of that website?

13 A. The purpose of that website is to assist policy makers,
14 academics, scholars, other experts that study this material.

03:04 15 What we do is we put out excerpts of the material that we're
16 working on. We put out excerpts from translations of al-Qaeda
17 videos. We put out excerpts from actually al-Qaeda videos
18 themselves.

19 In other words, we're trying to provide others,
03:04 20 such as ourselves, who are studying this material, with access
21 to the original information so that proper research, proper
22 scholarship is possible with regard to the al-Qaeda and similar
23 organizations.

24 Q. And during the course of preparing the website with those
03:05 25 materials, have you had an opportunity to view al-Qaeda videos?

03:05 1 A. I personally view almost every single video released by
2 al-Qaeda or any of its affiliate groups. I personally save
3 these videos. I personally put them into a giant database
4 which we maintain at Flashpoint. In our company database, we
03:05 5 have copies of virtually every single video recording, audio
6 recording, magazine, communique, website produced by any
7 terrorist organization that you can think of.

8 Q. Now, with respect to how you obtained your information --
9 you mentioned this a little bit earlier, but what sort of
03:05 10 sources do you look to when researching terrorist
11 organizations?

12 A. Well, there are different kinds of sources you can turn to.
13 There are primary sources; there are secondary sources; and
14 there are tertiary sources.

03:06 15 A primary source would be going out into the
16 field and actually interviewing someone directly, observing an
17 event happening. With regard to international terrorism, those
18 kind of sources are rather difficult to get to. Terrorists are
19 oftentimes on front lines. They're not always willing to meet
03:06 20 with westerners such as myself.

21 However, we do gather that kind of information.
22 I have traveled overseas in order to interview individuals who
23 are -- who have been convicted of recruiting, financing,
24 communicating on behalf of international terrorist groups.

03:06 25 We also maintain an office in a Pashwer,

03:06 1 Pakistan, where we conduct direct research on the ground with
2 regards al-Qaeda, the Taliban, and other similar groups.
3 However, again, that's only one small part of it. A large part
4 of our research is on secondary sources.

03:06 5 Q. What is that?

6 A. A secondary source would be a video recording produced by a
7 terrorist group, a magazine, photographs, and audio recording,
8 websites. It's not quite the same thing as being there on the
9 ground; however, these are official products of the groups that
03:07 10 we are -- we are studying. So, they do accurately reflect what
11 these groups are trying to communicate; they do accurately
12 reflect what these groups are trying to tell their own members.
13 Because we're gathering this information from the same location
14 that supporters of these groups, that members of these groups
03:07 15 would go to get that same information.

16 THE COURT: Hold it one second.

17 *(Court confers with staff)*

18 THE COURT: Go right ahead.

19 BY MR. HEENAN:

03:08 20 Q. Mr. Kohlmann, with respect to the secondary sources you
21 just mentioned, would an example of that be these al-Qaeda
22 videos you just referenced that you download and you keep in a
23 database in your firm?

24 A. Exactly. Video recordings --

03:08 25 THE COURT: Hold it. It will go a lot quicker if it's

03:08

1 just a "yes" or a "no."

2 THE WITNESS: Excuse me, your Honor.

3 Yes.

4 THE COURT: Go a lot quicker.

03:08

5 THE WITNESS: No problem.

6 BY MR. HEENAN:

7 Q. Mr. Kohlmann, have you ever personally interviewed a
8 primary source, a terrorist or an alleged terrorist?

9 A. Yes, I have.

03:08

10 Q. Who?

11 A. I've interviewed a number of such individuals: Abu Hamza
12 al-Masri, A-B-U, H-A-M-Z-A, A-L, dash, M-A-S-R-I.

13 Q. Who's that?

14 A. Abu Hamzal al-Masri is a hook-handed cleric from the United
15 Kingdom.

03:08

16 THE COURT: A what?

17 THE WITNESS: A hook-handed cleric.

18 THE COURT: What does that mean?

19 THE WITNESS: His hands were blown off in an
20 explosion --

03:08

21 THE COURT: Oh, okay.

22 THE WITNESS: -- and he has hooks for hands.

23 THE COURT: Got it.

24 THE WITNESS: -- who is based -- or was based in the
25 United Kingdom, originally from Egypt.

03:09

03:09 1 Abu Hamzal al-Masri is a veteran of the Afghan
2 jihad. That's where he lost his hands. He was convicted in
3 the United Kingdom, I believe in 2004, on terrorism offenses.

4 BY MR. HEENAN:

03:09 5 Q. Mr. Kohlmann, what type of products does Flashpoint
6 Partners produce in conjunction with these consulting services?

7 A. What we generally do is that we produce reports, video
8 recordings, other materials in which we take original products
9 produced by terrorist groups and we distill those materials
03:09 10 down into the essential parts. In other words, we try to
11 understand the inside of these groups based on their propaganda
12 and their public materials.

13 We distill that mostly into written reports;
14 although, there have been also video recordings, testimony in
03:09 15 court, et cetera.

16 Q. And these groups that you mentioned that are a part of this
17 global jihadist movement, do they frequently use these public
18 materials and put them out on the Internet?

19 A. Yes, these groups do.

03:10 20 Q. Now, I think you may have mentioned; but have you worked
21 for the US Government previously?

22 A. Yes, I have.

23 Q. And have you worked for the department of justice
24 previously?

03:10 25 A. Yes, I have.

03:10 1 Q. Can you give an example of the type of work you've done for
2 the United States Government?

3 A. Yes. I've done a number of different tasks. I've done
4 everything from providing expert consulting services, reviewing
03:10 5 hard drives, seized computer hard drives, and analyzing the
6 data in there, comparing and contrasting it with material from
7 our own database.

8 I have interviewed individuals who were
9 cooperating witnesses in terrorism cases. I have traveled
03:10 10 abroad to foreign countries in order to speak and work with
11 United States allies in conjunction with the US State
12 Department. I have assisted in terror financing
13 investigations --

14 THE COURT: Slow down, please.

03:10 15 THE WITNESS: Excuse me, your Honor.

16 -- with regards to both the treasury department
17 and the department of justice. And I also work on behalf of
18 the department of defense in Guantanamo Bay, Cuba.

19 BY MR. HEENAN:

03:11 20 Q. Have you worked with any foreign governments?

21 A. Yes, I have.

22 Q. What sort of work have you done with foreign governments?

23 A. Similar work on behalf of groups such as the
24 Counterterrorism Division at New Scotland Yard, the Danish PET
03:11 25 police intelligence service, the Australian federal police,

03:11 1 prosecutors in all those countries, prosecutors and police in
2 Bosnia and Herzegovina, supposed to go to Uganda soon, a
3 variety of different countries.

4 Q. And are all of those foreign engagements, do they involve
03:11 5 terrorism suspects or terrorism cases?

6 A. Almost certainly, yes.

7 Q. Now, you indicated that you have done some work with MSNBC.
8 Have you worked as an on-air terrorism expert?

9 A. That's correct, yes. I've worked with NBC since -- or I've
03:11 10 been on contract since 2005.

11 Q. And did you -- were you contacted by MSNBC for your
12 services after Anwar Awlaki was killed by a drone strike on
13 September 30th of this year?

14 A. That's correct, I was.

03:12 15 Q. Have you done any work for non-profit organizations?

16 A. Yes. I've done work on behalf of the non-profit
17 organization called the Nine Eleven Finding Answers Foundation,
18 otherwise known as "NEFA," N-E-F-A.

19 Q. Sir, with respect to any books or journals that you may
03:12 20 have published, have you published any books or articles in
21 your career?

22 A. I have.

23 Q. And I'll start with books. Any books?

24 A. Yes. In 2004 I published the book "Al-Qaida's Jihad in
03:12 25 Europe: The Afghan-Bosnian Network."

03:12

1 Q. And is that a book that has been adopted or used in any
2 schools, to your knowledge?

03:12

3 A. Yes. It has been used in such institutions as the Harvard
4 Kennedy School of Government, the Johns Hopkins School of
5 Advanced International Studies, and various other institutions
6 in the US and abroad.

7 Q. And have you published any articles in conjunction with
8 your work as a terrorism expert?

9 A. Yes, I have.

03:13

10 Q. Approximately how many?

11 A. Dozens. I think the last one I published was in "African
12 Security" -- which is a journal about African security -- on
13 the subject of the Shabaab al-Mujahideen movement in Somalia.

03:13

14 Q. Sir, I would like to ask you now about your prior
15 engagements as an expert witness.

16 A. Of course.

17 Q. Have you ever previously been retained as an expert witness
18 in other cases?

19 A. Yes, I have.

03:13

20 Q. And have those prior expert witness engagements involved
21 you testifying as an expert on terrorism in terrorism cases?

22 A. Yes, they have.

23 Q. Have you ever served as an expert witness on a criminal
24 case prosecuted by the department of justice?

03:13

25 A. Yes.

03:13 1 Q. And have you ever engaged in consulting activities in any
2 of those cases, where you've consulted with the prosecutors
3 outside of court?

4 A. Yes.

03:13 5 Q. And what sort of consulting work -- you mentioned a little
6 bit generally. But specifically, with respect to the
7 department of justice, what sort of consulting services have
8 you provided?

9 A. Sure. Again, I've provided forensic analysis of seized
03:14 10 hard drives in terrorism investigations. I have provided
11 review of evidence, interpretations of evidence. We have.
12 provided recovered documents from our own
13 database, which are required or necessary with regards
14 terrorism investigations.

03:14 15 I've provided insight in regards to the links
16 between various different terrorism investigations, as many of
17 these investigations tend to cross both national and
18 international boundaries.

19 Q. Have you testified in federal court previously, where
03:14 20 you've been admitted and accepted as an expert?

21 A. I have.

22 Q. Approximately how many times have you been found qualified
23 to testify as an expert on a terrorism-related matter in
24 federal court?

03:14 25 A. I believe I've been qualified 18 times.

03:14 1 Q. Have you been qualified previously in 2011, this year?

2 A. Yes, I have.

3 Q. How many times?

4 A. Twice.

03:15 5 Q. What federal districts was that in?

6 A. The Eastern District of New York, and the -- sorry -- the
7 Eastern District of North Carolina, I believe.

8 THE COURT: You can move on. I'll accept him as an
9 expert. In other words, you can get right down now to your
03:15 10 questions.

11 THE WITNESS: Thank you, your Honor.

12 MR. HEENAN: Very well, your Honor. Although, I do
13 want to just --

14 THE COURT: No. Now, wait. Unless there's some
03:15 15 matter that you need to get into the record, that you feel --
16 then go right ahead.

17 MR. HEENAN: Compensation of the witness, your Honor.

18 THE COURT: Sure.

19 BY MR. HEENAN:

03:15 20 Q. Mr. Kohlmann, are you typically paid for your service as an
21 expert witness?

22 A. I hope so, yes.

23 Q. Approximately how much do you bill for your services
24 nowadays?

03:15 25 A. It depends on the case, depending on what the work is

03:15 1 involved. It generally varies between about 300 and 400
2 dollars an hour.

3 Q. And how much have you earned thus far in connection with
4 your work on this particular case, United States versus Barry
03:15 5 Bujol?

6 A. Well, so far, I've been paid nothing; but I think I've
7 submitted a bill for something like \$9,000 or \$10,000,
8 something like that.

9 Q. And is there a cap to that contract in terms of the maximum
03:16 10 that you can make?

11 A. Yes, there is a -- it's something like \$30,000.

12 Q. Now, in addition to the work you've done serving as an
13 expert witness for the department of justice, have you also
14 previously provided assistance to the FBI in conjunction with
03:16 15 ongoing investigations?

16 A. Yes, I have.

17 Q. And over approximately what time period have you provided
18 assistance to the FBI?

19 A. I have provided assistance to the FBI since approximately
03:16 20 2003.

21 Q. And does that assistance continue to the present day?

22 A. It does, yes.

23 Q. Have you received compensation for assistance you have
24 provided to the FBI?

03:16 25 A. Yes, we have.

03:16 1 Q. Approximately how much have you been compensated by the FBI
2 over all those years?

3 A. Over the space of about nine or ten years, it's been about
4 \$60,000.

03:16 5 Q. And with respect to the other cases where you have
6 testified as an expert witness for the department of justice,
7 have you been paid for those other engagements, as well?

8 A. Yes.

9 Q. Sir, the Court has qualified you -- or found you qualified
03:17 10 to serve as an expert witness. So, I would like to get into
11 some broader subjects that you have been called to testify on.

12 You described earlier the global jihadist
13 movement.

14 A. Yes.

03:17 15 Q. I think you indicated sort of your expression --

16 MR. HEENAN: And, your Honor, for the record, that is
17 what I would -- I have tendered Mr. Kohlmann for, what I
18 believe he is an expert on, is on the global jihadist movement
19 and specifically al-Qaeda in the Arabian Peninsula as a
03:17 20 terrorism organization and how it recruits.

21 THE COURT: It's accepted. Move on, please.

22 BY MR. HEENAN:

23 Q. Mr. Kohlmann, what is the global jihadist movement?

24 A. The global jihadist movement is a movement of various
03:17 25 different Sunni militant organization. By "Sunni," I'm

03:18 1 referring to a particular sect in Muslim.

2 There are Sunnis, and there are Shiites. Sunnies
3 are the majority. There are various, different Sunni militant
4 organizations or extremist groups spread cross the world.

03:18 5 There are groups like al-Qaeda; there's groups like Shabaab
6 al-Mujahideen in Somalia; there's al-Qaeda in the Arabian
7 Peninsula in Yemen.

8 Not all of these groups are necessarily working
9 together hand-in-glove in terms of all the orders are
03:18 10 centralized and they all come from the very top of al-Qaeda in
11 Afghanistan. Some of these groups are somewhat autonomous.

12 Nonetheless, all of these groups perceive the
13 fact that they are part of one global movement. And as much as
14 they have their own local concerns and their own local
03:18 15 conflicts and sometimes there are differences between various
16 different conflicts in organizations, they all perceive the
17 fact that they are struggling for the same basic goal and they
18 perceive that it is in their interests to cooperate with each
19 other, to share resources, to communicate, and to work together
03:19 20 to the greatest extent possible.

21 Q. Now, with respect to the al-Qaeda organization in
22 particular, are you familiar with the branch al-Qaeda in the
23 Arabian Peninsula?

24 A. Yes, I am.

03:19 25 Q. And tell the Court, if you could, a little bit about that

03:19 1 organization.

2 A. Yes. Al-Qaeda in the Arabian Peninsula began actually as
3 early as 2003. It first began inside Saudi Arabia. It was
4 founded by veterans of al-Qaeda in Afghanistan, Saudis. That
03:19 5 branch of al-Qaeda was shut down in approximately 2006 because
6 of aggressive law enforcement actions by the Saudi government.
7 However, remaining members of that group, veterans of that
8 group, including individuals returning from Guantanamo Bay,
9 Cuba --

03:19 10 THE COURT: Slow down a little bit.

11 THE WITNESS: Excuse me, your Honor.

12 THE COURT: The court reporter needs to get it down.

13 THE WITNESS: No problem, your Honor.

14 -- crossed over the border from Saudi Arabia into
03:19 15 Yemen and joined up with a faction of al-Qaeda based there,
16 that at the time was calling itself "al-Qaeda in Yemen."

17 In January of 2009 a video was released by these
18 individuals, this group of Saudis and Yemenis; and they
19 announced that they were now reforming al-Qaeda in the Arabian
03:20 20 Peninsula based in Yemen as opposed to Saudi Arabia.

21 BY MR. HEENAN:

22 Q. Are you aware, Mr. Kohlmann, of how al-Qaeda in the Arabian
23 Peninsula uses the Internet to communicate?

24 A. It uses it very aggressively.

03:20 25 Q. And when you say that, how does it use the Internet in

03:20 1 communicating?

2 A. It uses the Internet to communicate in the sense that it
3 communicates in multiple languages. It puts out propaganda in
4 Arabic, in English, and in other languages. And it directly
03:20 5 attempts to recruit individuals over the Internet. It attempts
6 to recruit individuals to travel to the Arabian Peninsula and
7 to join al-Qaeda there. It also attempts to recruit
8 individuals to carry out terrorist attacks within the borders
9 of the countries that they are already living in.

03:21 10 Q. Are you familiar with the now deceased individual Anwar
11 al-Awlaki?

12 A. I am.

13 Q. Who was Anwar al-Awlaki?

14 A. Anwar al-Awlaki is a well-known cleric, Yemeni-American
03:21 15 cleric. He was born in New Mexico. He is -- I guess, he's
16 practiced his faith in places such as New Mexico; the
17 Washington, DC, area; San Diego. He quickly became well known
18 for the fact that he was very charismatic. He was a fluent
19 English speaker with a flat American accent.

03:21 20 And he was an extreme Salafi. By "extreme
21 Salafi," I mean, he was part of the Sunni Salafi sect. He had
22 fairly conservative -- you could call them puritanical views on
23 Islam. He believed in Muslims living according to the way that
24 the prophet lived at the time of the establishment of Islam in
03:22 25 the Arabian Peninsula.

03:22 1 Q. When you say a "conservative Salafi," the individuals in
2 the global jihadist movement that you described, are they of
3 like mind as the conservative Salafis?

03:22 4 A. Yes. Generally speaking, the Sunni militant movements that
5 I'm describing all describe themselves as Salafi. The idea --
6 "Salafi" means the "predecessors," the "elders" of Islam. In
7 other words, these individuals would like to return the
8 conditions of living back to the conditions lived by the people
9 who founded Islam.

03:22 10 Q. Now, with respect to Anwar al-Awlaki, do you recall roughly
11 when the Nidal Hasan incident happened?

12 A. Yes, I do.

13 Q. When was that, approximately?

14 A. It was approximately two years ago.

03:22 15 Q. And you're obviously familiar with the media and Anwar
16 Awlaki. Is it fair to say that he came to the public attention
17 of the United States most prominently in the wake of the Fort
18 Hood shootings?

03:23 19 A. Yes, that's true. Al-Awlaki had already come, I think, to
20 the attention of the American media prior to that on the basis
21 of his contacts with 9-11 hijackers in San Diego. However, up
22 till then, there was still some who believed that he might
23 be -- it might be a case of mistaken identity or there was
24 something wrong.

03:23 25 However, at the time of Fort Hood, it became

03:23 1 clear that Mr. al-Awlaki had extreme anti-American views, that
2 he supported terrorism against the United States, and that he
3 was directly engaged in recruiting individuals to carry out
4 terrorist attacks against US interests abroad and against the
03:23 5 United States within its own borders.

6 Q. Mr. Kohlmann, amongst the conservative Salafis and the
7 global jihadist participants you've mentioned, was Mr. Anwar
8 al-Awlaki known in those circles prior to Fort Hood?

9 A. Yes, he was.

03:24 10 Q. And what was his reputation amongst the individuals in the
11 global jihadist movement prior to Fort Hood?

12 A. He was known as the preeminent English-speaking voice for
13 radical jihad in the entire world. There was nobody who spoke
14 English, who was as charismatic, who was as well taught or as
03:24 15 well learned on subjects of jihad, and certainly there was
16 nobody as popular. He was a rock star amongst jihadis,
17 English-speaking jihadis primarily, even prior to Fort Hood.

18 Q. Do you speak Arabic, Mr. Kohlmann?

19 A. Not fluently, but I do know some.

03:24 20 Q. And the Arabic words that you know, are they words that
21 relate to the global jihadist movement?

22 A. Islam, in general, the global jihadist movement. I mean,
23 studying Islam, you have to learn some Arabic because Islam
24 came from the Arabian Peninsula. So, I know quite a bit of
03:25 25 Arabic vocabulary relating to Islam and, of course, the area

03:25 1 of -- my particular area of study, which is jihad and the
2 global jihadi movement.

3 Q. What is "jihad"?

4 A. "Jihad" itself is an Arabic word which simply means a "holy
03:25 5 struggle."

6 Q. And is there a more nefarious meaning to that word amongst
7 the conservative Salafi circles?

8 A. Yeah. There are two basic interpretations of "jihad."
9 There is the interpretation of "jihad" as being an "internal
03:25 10 jihad." In other words, if you're an alcoholic, if you're a
11 chain smoker, you could wage internal jihad against alcoholism,
12 against chain smoking and you could give it up. It will be a
13 struggle inside of yourself.

14 However, there's another form of jihad, which is
03:25 15 the external form of jihad, the form of physical jihad, which
16 is more closely associated with the concept of holy war; in
17 other words a physical struggle, a physical battle against
18 enemies of Islam.

19 Q. Are you familiar with the Arabic term "ajar"?

03:26 20 A. Yes.

21 Q. And what does "ajar" mean?

22 A. Means you get the honor, the credit.

23 Q. And within the global jihadist movement, is there any
24 special significance ascribed to the word "ajar"?

03:26 25 A. Yes. I mean, it can be used in the form of getting credit

03:26 1 to get to paradise. The idea of waging jihad is that you are
2 trying to seek the pleasure of Allah, you're trying to seek the
3 pleasure of God.

4 And why are you doing that? Because of the fact
03:26 5 that you want to get to paradise. And the only people that
6 supposedly will be allowed into paradise are those people who
7 have struggled for Islam and who have gained credit in the eyes
8 of the law as being true Muslims.

9 Q. Are you familiar with the word "hijrah"?

03:26 10 A. Yes.

11 Q. What is "hijrah"?

12 A. "Hijrah" simply means a "pilgrimage." It's most commonly
13 associated with the idea of the "hajj," which is the pilgrimage
14 to Mecca. Every Muslim is required once in his lifetime to
03:27 15 travel to Mecca in Saudi Arabia and visit the Grand Mosque
16 there during the Month of Ramadan and pray and experience what
17 a pilgrimage is in Islam.

18 Q. In the global jihadist movement circles, is there an
19 additional meaning or different meaning subscribed to "hijrah"?

03:27 20 A. Yes, there is.

21 Q. What is that meaning?

22 A. That meaning is the idea that there are two different kinds
23 of places out there in the world. There's dar al-Harb and
24 there's dar al-Islam; there's the house of war and there's the
03:27 25 house of Islam.

03:27 1 If you're living in the house of war, if you're
2 living among disbelievers and you're a Muslim, it is your
3 obligation to travel to an Islamic land, to live there, and to
4 fight on behalf of Muslims, to fight on behalf of Islam.

03:27 5 That's the way the jihadis see it. In fact, in the jihadi
6 ideology, the concepts of hijrah and jihad are very closely
7 tied in with each other because it's the idea of traveling to
8 go participate in a holy struggle, a physical holy struggle.

03:28 9 THE COURT: What is it you said? It was the house of
10 war and the other was a house of --

11 THE WITNESS: House of Islam, dar al-Harb and dar
12 al-Islam, exactly.

13 BY MR. HEENAN:

14 Q. Mr. Kohlmann, are you familiar with the word "mujahideen"?

03:28 15 A. "Al-mujahideen," yes.

16 Q. What is "al-mujahideen"?

17 A. "Al-mujahideen" comes -- it's an Arabic word. It comes
18 from the same root word as jihad. However, it refers to the
19 holy warriors.

03:28 20 Q. And is there a benign meaning when you say "holy warriors"?
21 Are there more than one meaning for "mujahideen" in Islamic
22 faith?

23 A. Well, in my 14 years of study and work, both studying Islam
24 and studying the global jihadi movement, I've never seen an
03:28 25 organization or anyone refer to themselves as "mujahideen"

03:28 1 other than in the sense of physical combat, fighting.

2 You can't -- if you're a part of the mujahideen,
3 you can't struggle inside of somebody else. By definition, if
4 you're fighting is part of a group, it's got to be an external
03:29 5 struggle; it can't be an internal struggle.

6 Q. Do you know the term "as-sadiqeen"?

7 A. Yes.

8 Q. What does that mean?

9 A. It means the "honest ones," the "truthful ones."

03:29 10 Q. And within the global jihadist movement, when the term
11 "as-sadiqeen" is paired with "mujahideen," does that suggest
12 anything to you?

13 A. Well, it could be used as a synonym.

14 THE COURT: Meaning what? Same meaning?

03:29 15 THE WITNESS: Well, your Honor, in the world of jihad
16 or the world of people that believe in jihad, the truthful
17 ones, the honorable ones are the people that are on the
18 battlefield, the people that are fighting for their beliefs.
19 So, anyone who is -- anyone who is truthful to themselves and
03:29 20 truthful to their religion, in the view of jihadis, should be
21 out there fighting on the front line.

22 BY MR. HEENAN:

23 Q. You are you familiar with the term "kufr"?

24 A. "Kufr," yes.

03:29 25 Q. What is that?

03:29 1 A. "Kufr," K-U-F-R, means "disbelief." There's other -- two
2 other words --

3 THE COURT: That means "disbelief"?

4 THE WITNESS: "Disbelief," in other words disbelieving
03:30 5 in Islam or disbelieving in faith.

6 And, then, there is two other words that go along
7 with that, which is "kafir," K-A-F-I-R, again, from the same
8 root, which means a "disbeliever" or "infidel." And, then,
9 there's the "kuffar," which is the plural. You have
03:30 10 K-U-F-F-A-R, which is the "disbelievers" or the "infidels."

11 Q. Are you familiar with the term "dunya"?

12 A. Dunya, yes.

13 Q. What is "dunya"?

14 A. "Dunya" refers to the material world. In other words,
03:30 15 there's the spiritual world, and then there's the material
16 world. You can enrich yourself in the material world or you
17 can enrich yourself spiritually.

18 Q. Mr. Kohlmann, I would like to show you some exhibits that
19 have already been admitted at trial and have been discussed
03:30 20 previously at various points. So, I'll ask you to direct your
21 attention to the screen.

22 I show you Exhibit 4. Sir, do you know what this
23 document is?

24 A. I believe I do, yes.

03:31 25 Q. What is that document?

03:31

1 A. This is the front page from a now defunct jihadi website
2 known as "Jihad Fields." It was hosted by a blogging service
3 known as WordPress.com.

03:31

4 Q. I would like to direct your attention to a page in there.
5 Let's see the page.

6 It's Page 9. And if we could blow up at the
7 bottom there.

03:31

8 At the very bottom of that Paragraph Number 12,
9 there's an entry on the blog from an Abdul Bari, which I will
10 just read to you and have a question for you.

03:32

11 "Asalamu alaikum. To 'follow the path of the
12 American or John Walker Lindh' is a pretty broad answer. I've
13 tried to find out how they made their way to the battlefields
14 but that information isn't out there. I'm looking for a
15 specific course of action. Right now, I'm learning Arabic and
16 exercising. But still that isn't going to tell me how to get
17 overseas to the Land of Ribaah and fulfill my obligations."

03:32

18 Sir, are you familiar with the term "Land of
19 Ribaah"?

20 A. Yes.

21 Q. What is the "Land of Ribaah"?

03:32

22 A. The "Land of Ribaah" refers to the land of preparation, the
23 land of preparing yourself for physical combat. It's often
24 referred to -- the expression, rather, is used frequently to
25 refer to conflict zones, such as the Palestinian territories,

03:32

1 Yemen, Afghanistan, et cetera.

2 Q. And is that a common expression or concept in the global
3 jihadist movement?

03:32

4 A. Yes, "Ribaah" is -- the "Land of Ribaah" and "Ribaah" in
5 general is a very common term among jihadis.

6 Q. I would like to show you what has been admitted as
7 Government's Exhibit 33. Do you recognize what that is, sir?

8 A. Yes, I do.

9 Q. What is that?

03:32

10 A. This is a CD recording of Sheikh Anwar al-Awlaki, the title
11 of which is "The Hereafter." I believe this is CD 1, Volume I.

12 Q. Have you, yourself, listened to this recording?

13 A. Yes.

14 Q. And what is contained on this CD?

03:33

15 A. This particular CD, I believe, is on the subject of the
16 importance of hijrah, or the importance of death.

17 Q. Government's Exhibit 34, what is that, sir?

18 A. This is -- I believe this is another recording of Anwar
19 al-Awlaki. And it says "The Hereafter Prophets"; and it's
20 about Umar Ibn al-Khattab and Abu Bakr al Siddiq.

03:33

21 Q. Is that also an item that contains a sermon from Anwar
22 al-Awlaki?

23 A. Yes. He's speaking here about the righteously guided
24 leaders of Islam.

03:33

25 Q. I'm going to show you Government's Exhibit 35, which is

03:33 1 admitted into evidence. Do you recognize this document?

2 A. Yes, I do.

3 Q. And what is that document?

4 A. This is a printout of a web page from a website known as
03:34 5 SalaatTime.com, which offers download links for audio sermons
6 recorded by Sheikh Anwar al-Awlaki.

7 Q. And I would like to direct your attention to the links that
8 appear in the middle of the document to be blown up. Right
9 under "Allah is Preparing Us for Victory," do you see those
03:34 10 three links?

11 A. Yes, I do.

12 Q. And what are those links?

13 A. These are three links to the audio recording and transcript
14 of a sermon by Sheikh Anwar al-Awlaki, "Allah is Preparing Us
03:34 15 for Victory," which was recorded in 2006.

16 Q. Is there anything significant about that recording with
17 respect to the global jihadist movement?

18 A. A large part of it has to do with the obligation of jihad,
19 the obligation of physical struggling, the obligation of making
03:34 20 hijrah to the land of jihad. It's one of the more radical
21 recordings by Anwar Awlaki.

22 Q. I'm going to show you the second page of this same
23 document, Government's Exhibit 35. And at the top right there
24 is a link for a file, "Preparing for Death." Is that something
03:35 25 you are familiar with?

03:35

1 A. Yes, I am.

2 Q. And what is that particular lecture?

3 A. This is another lecture by Sheikh Anwar al-Awlaki about the
4 necessity to be always ready to die at any minute.

03:35

5 Q. And a little further down the page, under "Current Events,"
6 there's a link for "Dust Will Never Settle Down." Are you
7 familiar with that lecture?

8 A. Yes, I am.

9 Q. What is that lecture about?

03:35

10 A. This is another lecture by Sheikh Anwar al-Awlaki that has
11 aggressively been promoted by jihadist groups around the world,
12 by actual mujahideen organizations. It is suggesting that it
13 is against the nature of Muslims to sit on the sidelines, it is
14 in their nature to fight and to struggle.

03:36

15 Q. And next to that there's also a link for "Battle of Hearts
16 and Minds." Are you familiar with that lecture?

17 A. Yes.

18 Q. And, briefly, what is that lecture about?

03:36

19 A. This is another Anwar al-Awlaki lecture. This is about the
20 struggle between the West and Islam for the minds of Muslims
21 and the destiny of Muslims, again talking about the subject of
22 jihad.

23 Q. I would like to show you the third page of this exhibit.

24 Towards the bottom, there is a lecture in there entitled

03:36

25 "Hijrah." Are you familiar with that particular lecture from

03:36

1 Mr. Awlaki?

2 A. Yes, I am.

3 Q. What is that about?

4 A. This is a lecture about the necessity of making hijrah to
5 an Islamic land and participating in Islamic organizations and
6 leaving the land of the infidels.

7 Q. And at the bottom of this page, there are some additional
8 lectures. Are you familiar with the two lectures at the
9 bottom, "Mashari al-Ashwaq"?

03:36

10 A. Yes.

11 Q. What is that about briefly?

12 A. "Mashari al-Ashwaq" is an interpretation of a text that was
13 originally written about a thousand years ago. However, it has
14 become an essential textbook for jihadis. It was originally
15 written in Arabic. So, Anwar al-Awlaki took the original
16 Arabic language text and he interpreted it into English and he
17 re-released it so that English-speaking jihadists would be able
18 to access that kind of same essential textbook which jihadis
19 around the world study.

03:37

20 Q. And is that a popular lecture within global jihadists
21 circles?

22 A. It is an exceptionally popular lecture. It shows up in
23 many, many, many cases of suspected terrorists or terrorist
24 activity.

03:37

25 Q. Immediately below those links, there is a link for a

03:37 1 lecture "Constants on the Path." Are you familiar with that
2 particular lecture?

3 A. I'm very familiar with it.

4 Q. And if you could briefly tell the Court a little bit about
03:37 5 that particular lecture.

6 A. Yes. "Constants on the Path of Jihad" was originally a
7 training manual written by the founder of al-Qaeda in Saudi
8 Arabia, whose name was Yusuf al-Uyayry, U-Y-A-Y-R-Y. Yusuf
9 al-Uyayry published this in 2003. It was about the necessity
03:38 10 of engaging in physical battle and physical violent conflict.
11 However, it was originally released in Arabic.

12 Anwar al-Awlaki thought it was so great and
13 thought it was such a wonderful document, that he took it and
14 he created an English language sermon in which he not only
03:38 15 translated it but he tried to interpret the lessons from the
16 view of Muslims living in Western countries.

17 In other words, at one point during the
18 lecture -- in the original lecture al-Uyayry had written that
19 it is an obligation to engage in violent jihad no matter where
03:38 20 you live; no matter where you live around the world, it's an
21 obligation to engage in violent jihad. And Anwar al-Awlaki
22 wrote that. And then he added the next section saying, "and
23 this means that you if you live in the United Kingdom or North
24 America, you're obliged to still engage in violent jihad right
03:39 25 in your own backyard."

03:39 1 Q. Has that particular lecture, "Constants on the Path of
2 Jihad," has that been a popular lecture within the global
3 jihadists movement?

4 A. I would say it is one of the single most influential, most
03:39 5 important English language sermons on jihad out there. It
6 shows up everywhere. It shows up in multiple different
7 countries. It has turned up in almost every single terrorism
8 investigation launched by the US Department of Justice over the
9 last five years.

03:39 10 Q. Mr. Kohlmann, as part of your expert services in this case,
11 were you provided a copy by the FBI of the hard drive computer
12 seized from Mr. Bujol's personal residence?

13 A. I was provided with material excerpted from it, or
14 extracted from it, yes.

03:39 15 Q. With respect to the materials extracted from the hard drive
16 of Mr. Bujol, that were provided to you, did you find this
17 particular lecture on that hard drive?

18 A. Yes. All six sections of "Constants on the Path of Jihad"
19 were on the hard drive. In addition to that, there was also a
03:40 20 second copy of "Constants on the Path of Jihad" which was
21 compressed in something known as ZIP format, .zip format.

22 Q. And showing you the fourth page of Government's Exhibit 35,
23 at the top, there's a link for a "44 Ways of Supporting Jihad."
24 Is that a document you're familiar with?

03:40 25 A. Yes, I am.

03:40 1 Q. And you've heard some discussion, I think, here about the
2 "42 Ways of Supporting Jihad," which is a document that was
3 discussed earlier?

4 A. Yes.

03:40 5 Q. What's "44 Ways"; what's "42 Ways"?

6 A. Well, both "42 Ways" and "44 Ways" are, again, English
7 language interpretations of a document that was originally
8 published by al-Qaeda in Saudi Arabia in 2003.

9 The original title of the document was "39 Ways
03:40 10 to Serve and Participate in Jihad." And the original author of
11 that document was an individual named Esa al-Awshin, E-S-A,
12 A-W-S-H-I-N. Esa al-Awshin was the official -- excuse me --
13 was the editor of the official magazine of al-Qaeda in Saudi
14 Arabia, which was known as "The Voice of Jihad" magazine. He
03:41 15 published a guidebook on behalf of al-Qaeda, titled "39 Ways to
16 Serve and Participate in Jihad," which was meant to be a guide
17 for homegrown militants, for homegrown jihadists, about how
18 they could contribute and serve a role in the jihad that
19 al-Qaeda was leading.

03:41 20 In approximately 2008 Anwar al-Awlaki released a
21 second version of this, an updated version, much like
22 "Constants on the Path of Jihad," which he titled "44 Ways to
23 Serve and Participate in Jihad." He added an extra five ways
24 on to that. And he interpreted everything for an
03:41 25 English-speaking audience.

03:41 1 Q. What was the "42 Ways of Supporting Jihad"?

2 A. Prior to my involvement in this case, I had never seen that
3 document before. Based on my analysis of material provided to
4 me in this case, I have determine that "42 Ways of Supporting
03:42 5 Jihad" was, in other words, a work in progress. It was a
6 pre-release version of "44 Ways to Serve and Participate in
7 Jihad" that was never actually released publicly. It was never
8 published on Anwar al-Awlaki's website. It was never directly
9 disseminated by him, at least publicly.

03:42 10 Q. But it is a document that could have been provided directly
11 from Mr. Awlaki to an individual?

12 A. Oh, yeah, yeah. And when I say "directly," I mean it was
13 never published on his website.

14 And, again, based on my analysis -- and I went
03:42 15 through this very carefully -- the content in "42 Ways" and the
16 content in "44 Ways" is not just similar; it's verbatim. The
17 only difference is that there's an extra two ways that got
18 added on to that later on. And, then, the final version was
19 apparently published on Anwar al-Awlaki's website.

03:43 20 So, again, the "42 Ways" was a pre-release
21 version. It was like a sneak peek of a document that Anwar
22 al-Awlaki had been working on for several years.

23 Q. I would like to direct your attention to Government's
24 Exhibit 57, which is in evidence, and just direct your
03:43 25 attention to the websites in the "To" field of this e-mail from

03:43 1 Abdul Bari on April 25th, 2008. Do you recognize any of those
2 web addresses?

3 A. Well, I recognize the "alqaeda" part of it. I haven't seen
4 these particular videos, not directly.

03:43 5 Q. Does this appear to be an attempt by an individual, from an
6 e-mail account at Abdul_Bari05@Yahoo.com, to contact al-Qaeda?

7 A. That was my assessment of it, yes.

8 Q. I would like to direct your attention to Government's
9 Exhibit 58 which is in evidence. This is an e-mail from

03:44 10 Abdul_Bari05@Yahoo.com to Abdul_Bari05@Yahoo.com. It lists
11 several web links for websites. Do you recognize any of those
12 websites, Mr. Kohlmann?

13 A. Yes, I do.

14 Q. And perhaps you could go down the list. What are those
03:44 15 websites?

16 A. Well, at the time this e-mail was sent, these were
17 al-Qaeda's most important websites on the Internet.

18 Q. When you say "al-Qaeda's most important websites," do these
19 websites actually resolve back to al-Qaeda, the terrorist
03:44 20 organization?

21 A. Yes, directly. The first website which you see, the first
22 four links running down to Al-Ekhlaas.org, that was the Ekhlaas
23 network. Between 2005 and 2007 -- excuse me -- 2008, really,
24 Ekhlaas served as the official distribution point for all
03:44 25 al-Qaeda media. Every single video recording released by any

03:45 1 al-Qaeda faction you can think of officially came through that
2 website.

3 It was at various times a password protected
4 website. In other words, you had to have a user name and a
03:45 5 password in order to access it. The materials on there were
6 password protected. The video recordings were encrypted. They
7 were the official products of al-Qaeda.

8 In fact, not only was al-Qaeda disseminating
9 information on there, al-Qaeda was also soliciting questions
03:45 10 for Q-and-A sessions with its senior leadership from users on
11 that particular forum.

12 Q. How about some of the -- the Ekhlaas websites, I believe,
13 are the first four links.

14 A. That's correct.

03:45 15 Q. Below that there are -- and I have trouble with --

16 A. It's "m3ark,"[sic] "m3ark," [sic] which is the next three.

17 Q. What are those?

18 A. M3ark [sic] was another top tier jihadi web forum. It
19 recently went offline, about six months ago. It was another
03:45 20 place where you could go and get the latest recordings, video
21 recordings, audio recordings, communiques from any al-Qaeda
22 branch you can think of. There's a specific section of m3ark
23 [sic] dedicated just to materials from official mujahideen
24 organizations.

03:46 25 Below that, you'll see three links: majahden.com,

03:46 1 majahden.org, and majahden.ubb.cc. That is the mujahideen
2 electronic network. That is another forum, very similar to
3 al-m3ark [sic], which is another top tier jihadi web forum.
4 Again, a place where you can go and get the latest video
03:46 5 recordings, audio recordings, communiques from al-Qaeda and its
6 affiliates.

7 Below that, there are three links: al-faloja.com,
8 al-faloja.org, and al-faloja.info. This is the Fallujah
9 Islamic Network. Between 2007 and 2009 the Fallujah Islamic
03:46 10 Network was the exclusive singular place where al-Qaeda
11 released every single video recording that they put out, every
12 single communique, every single audio recording, every single
13 magazine. This website was at various times password
14 protected -- in other words, it required a special login and
03:47 15 password in order to get access. The videos there were all
16 encrypted.

17 And the members of that forum included
18 individuals on front lines in Afghanistan, Pakistan, Somalia,
19 and elsewhere. At least -- I have tracked at least seven to
03:47 20 eight different individuals from the Fallujah Islamic Network,
21 who were posting in April of 2008, who have since been killed
22 in drone strikes, who have blown themselves up while trying to
23 build explosive devices, or have been arrested in significant
24 international terrorism investigations.

03:47 25 Q. I would like to direct your attention now to Government's

03:47 1 Exhibit 61.

2 Mr. Kohlmann, I'm going to show you just a
3 portion. This video was played earlier in this trial and
4 identified as the "Juba Sniper" video by a previous witness. I
03:48 5 just want to play a portion of it and ask you a little bit
6 about it.

7 THE COURT: What exhibit are we referring to?

8 MR. HEENAN: This is Government's Exhibit 61.

9 THE COURT: Okay. Go on.

03:48 10 *(Tape playing)*

11 BY MR. HEENAN:

12 Q. Mr. Kohlmann, are you familiar with this particular video?

13 A. Yes, I am.

14 Q. And with respect to the materials that were provided to you
03:49 15 that were excerpted from the hard drive recovered from
16 Mr. Bujol's residence, the computer hard drive, was this video
17 included in those materials?

18 A. It was, yes.

19 Q. What is this video?

03:49 20 A. This video consists of excerpts from a video that was
21 originally produced by an Iraqi insurgent group known as the
22 Islamic Army in Iraq, IAI. The title of the video is "Juba
23 Sniper." "Juba" is slang, regional slang, for Baghdad. So, in
24 other words, another title would be "Baghdad Sniper."

03:49 25 It is the purported story of a sniper working

03:49 1 with the Islamic Army in Iraq, who kills American soldiers on a
2 daily basis. The idea behind Juba Sniper was to show various
3 attacks taking place.

03:50 4 About two years ago, I interviewed the Islamic
5 Army of Iraq about why they produced "Juba Sniper" because,
6 obviously, we were very curious about this. This video has
7 been very, very popular. It's been very popular both amongst
8 jihadis in Iraq as well as jihadis all around the world.

03:50 9 I asked the individuals responsible for producing
10 this video why did they produce it and why did they market it
11 so heavily to non-Arabic speakers. And what they explained to
12 me was, is that, as much as they hoped to achieve a propaganda
13 victory against the United States by showing US soldiers being
14 murdered in Iraq, they also hoped that this video would inspire
03:50 15 revolutionaries from around the world to follow suit and mimic
16 these same tactics.

17 Q. I would like to show you Government's Exhibit 62, which is
18 in evidence. And this is an item from what is "Islamic jihad"
19 backwards, @Yahoo.com, a web e-mail address to
03:51 20 Abdul_Bari05@Yahoo.com. Do you recognize the web link there?

21 A. Yes, I do.

22 Q. What is that web link to?

23 A. This web link is to a website called Hoor-al-Ayn.com, which
24 is -- Hoor-al-Ayn is the virgins of paradise which are
03:51 25 supposedly the reward for martyrs in Islam. You get 72 virgins

03:51 1 in paradise when you're martyred. And specifically, this is to
2 a page on that website which offers various audio recordings of
3 Anwar al-Awlaki free for download to any visitors.

03:51 4 Q. I show you Government's Exhibit 63, second page. This is
5 in evidence, Mr. Kohlmann. I think we've spoken about it
6 already today. But do you recognize this document?

7 A. I do, yes.

8 Q. And what is this document?

03:52 9 A. This is "42 Ways of Supporting Jihad." This is what I had
10 described as being a pre-release or a sneak-peak version of "44
11 Ways of Supporting Jihad." This version was never disseminated
12 publicly.

13 Q. I would like to direct your attention to the top of the
14 page. This is Page 1. It's an e-mail from Al_Aulaqi@yahoo.com
03:52 15 to Abdul_Bari05@yahoo.com.

16 Mr. Kohlmann, are you familiar with the web
17 address on the "From" link for Anwar Awlaki,
18 Al_Aulaqi@yahoo.com?

19 A. Yes, I am.

03:52 20 Q. Is that an e-mail address that you understand was in fact
21 used by Anwar Awlaki in July 2008?

22 A. Yes. That address was being openly advertised on
23 Anwar-alAwlaki.com. It was also being advertised by various
24 Islamic organizations. If you wanted to get in contact with
03:53 25 Anwar al-Awlaki directly, you were advised to send e-mail to

03:53 1 that address.

2 Q. And based on your familiarity with the global jihadist
3 movement and how Anwar Awlaki operates, do you have an opinion
4 on whether Mr. Awlaki himself would have produced an e-mail
03:53 5 responding through this account or had an intermediary do it?

6 A. Well, obviously, I can't say for certain. But what I can
7 say is that Anwar al-Awlaki has boasted of directly sending
8 e-mails with individuals in the United States who he hoped to
9 radicalize and turn into Islamic militants.

03:53 10 Q. I would like to show you now what has been admitted into
11 evidence as Government's Exhibit 65. And I think what I am
12 going to do, sir, is I'm going to go through -- there are
13 several of these. They all state at the top "Anwar al-Awlaki
14 On-Line."

03:53 15 Let me ask, first, are you familiar with this
16 particular e-mail?

17 A. Yes, I am.

18 Q. And what is this?

19 A. This was an item posted on Anwar-alAwlaki.com, the official
03:54 20 website of Anwar-alAwlaki.com. It was essentially Anwar
21 al-Awlaki's blog. This was a blog entry posted on that website
22 in July 13th of 2008.

23 Q. And do you, at your company, have all the postings from
24 this particular website?

03:54 25 A. I have a complete copy of Anwar-alAwlaki.com downloaded on

03:54 1 the same day of Fort Hood -- the Fort Hood massacre.

2 Q. Okay. This is Exhibit 65. I just want to direct your
3 attention to a few of them.

4 Exhibit 66, is this a similar posting?

03:54 5 A. This is another item, again, posted on Anwar-alAwlaki.com,
6 the Anwar al-Awlaki blog. You can see here this was sent out
7 as part of a mailing list which was enabled on the website. In
8 other words, if you visited Anwar-alAwlaki.com, you could sign
9 up to subscribe to be updated every time a new item was added
03:55 10 to the blog. The e-mail came from Suppport@DeenWorks.com,
11 DeenWorks.com being the service that Anwar al-Awlaki was using
12 to help disseminate his media.

13 Q. Based on that, would Abdul_Bari05@Yahoo.com be an e-mail
14 address that would have been in the databases for this Anwar
03:55 15 al-Awlaki On-Line?

16 A. Yes. Yes. Almost certainly, yes.

17 Q. Government's Exhibit 69 is another Anwar al-Awlaki On-Line
18 post?

19 A. Yes. This is from August 1st, 2008.

03:55 20 Q. Government's Exhibit 72. Same?

21 A. Once again, yeah, this is again also from August 2008,
22 posted on Anwar-alAwlaki.com.

23 Q. Government's Exhibit 73. Same?

24 A. Yes. Once again, this is another item posted in August of
03:56 25 2008 on the Anwar al-Awlaki blog and disseminated to

03:56 1 subscribers by e-mail.

2 Q. 74, Government's Exhibit 74, I'll just go ahead and go
3 through them, sir.

4 76, 79, 81, 89, 101 -- if I could stop on this
03:56 5 one, the exhibits that I have just shown you, Mr. Kohlmann,
6 again, those are Anwar al-Awlaki On-Line items that were
7 posted?

8 A. All items posted on his blog, that's correct, yes.

9 Q. Are you familiar with the one I'm showing you now,
03:56 10 Government's Exhibit 101, entitled "Suicide or Martyrdom"?

11 A. Yes, I am.

12 Q. I would like to direct your attention to the second page,
13 last paragraph, where it says, "Today the world turns upside
14 down when one Muslim performs a martyrdom operation. Can you
03:57 15 imagine what would happen if that is done by 700 Muslims on the
16 same day?"

17 Does that particular paragraph have any special
18 significance to you with respect to how it would be viewed by
19 the global jihadist movement?

03:57 20 A. Yes. It would be viewed by the global jihadist movement as
21 Anwar al-Awlaki encouraging or calling upon homegrown
22 extremists, individuals who are -- who may not necessarily be
23 directly affiliated with al-Qaeda, to carry out suicide
24 bombings in league -- or suicide attacks in league with
03:57 25 al-Qaeda's cause because, according to what he is saying, it

03:57 1 doesn't really matter whether or not you're al-Qaeda or
2 whatever you are, as long as you're carrying out a martyrdom
3 operation on a particular day for a particular cause, the
4 effect is the same. So, this is a call to arms.

03:58 5 Q. I would like to show you Government's Exhibit 103. Do you
6 recognize what this is, sir?

7 A. Yes, I believe I do.

8 Q. And what is this?

9 A. This is a posting on a Yahoo! chat group, or discussion
03:58 10 group. The Yahoo! chat group, discussion group title is
11 "Hijrah_ Islam."

12 THE COURT: Let me jump in right here. It's right
13 about 4:00 o'clock. We need to take the afternoon break. Let
14 me ask, Mr. Kohlmann, sounds as if the company you founded --
03:58 15 what year? 2003, was it?

16 THE WITNESS: I initially founded it in 2003, that's
17 correct, yes.

18 THE COURT: You track everything, you try to track
19 everything relevant to your area of expertise as an expert in
03:58 20 this case?

21 THE WITNESS: Your Honor, yes, we do. With regards
22 to, for instance, discussion forums run by terrorist groups, we
23 not only save the material posted on there, we save every
24 single message. So, we have every single message from most of
03:59 25 the jihadi forums out there.

03:59 1 THE COURT: You founded the group, correct?

2 THE WITNESS: That's correct, yes, sir.

3 THE COURT: How many folks do you have in your employ?

4 THE WITNESS: We have approximately 10 people, plus an
03:59 5 additional five or six interns.

6 THE COURT: Okay. You say you do speak some Arabic?

7 THE WITNESS: Not only do I speak some Arabic, but my
8 chief -- one of our chief analysts is a native Arabic speaker
9 in our office, from Jordan. He sits side by side with me. In
03:59 10 addition, we have at least three other individuals in our
11 office who are native Arabic speakers.

12 THE COURT: If I remember, you have traveled the world
13 and met with as many of these, shall we say, opposition folks
14 as anyone, it sounds like.

03:59 15 THE WITNESS: I have interviewed at least a dozen such
16 individuals, including individuals who have been either
17 convicted in terrorism cases or have been designated by the US
18 Government as SDGTs, Specially Designated Global Terrorists.

19 THE COURT: Okay. It's 4:00 o'clock. Since we're
03:59 20 going to go right through to 6:00 or 6:05, let's take a
21 20-minute break. And we'll wrap it up for the day after that.
22 We'll see you back in 20 minutes.

23 *(Recess was taken)*

24 THE COURT: Okay. Thank you. Be seated.

04:31 25 All right. Let's go, please.

04:31 1 BY MR. HEENAN:

2 Q. Mr. Kohlmann, before the break, we were talking about what
3 has been admitted in evidence as Government's Exhibit 103 and
4 you describe it as a lecture that had been prepared by Anwar
04:32 5 Awlaki in the past. I would like to direct your attention to
6 Page 5 of this exhibit, at the bottom, and direct your
7 attention to the bottom paragraph, the third notice where it
8 says, "I pray that Allah destroys America and all its allies
9 and the day that happens, and I assure you it will sooner than
04:32 10 you think, I will be very pleased. Pleased as every true
11 believer should be pleased and as Sarah was pleased when she
12 heard that the angels will destroy the towns of the people of
13 Lut."

14 Are you familiar with that particular concept
04:32 15 Mr. Awlaki is articulating?

16 A. Yes, I am.

17 Q. And what is he talking about there?

18 A. Well, he's talking about -- when he's talking about "Lut,"
19 he's talking about Sodom and Gomorrah. He's talking about the
04:32 20 destruction of the sinners.

21 But what he's saying here is he wants to see the
22 United States destroyed. But that's consistent with everything
23 he's said ever since about 2008.

24 Q. And is this also a call to arms by Mr. Awlaki to other
04:33 25 violent or radical jihadists throughout the world?

04:33 1 A. Yes. I think you could say this is him directly endorsing
2 the idea of someone launching a violent attack against the
3 United States or US interests abroad, yes.

04:33 4 Q. I'd direct your attention to what's been admitted as
5 Government's Exhibit 182.

6 And there was testimony about this exhibit, an
7 article from the "New York Times" entitled "American Held in
8 Yemen after Shootout," discussing an individual by the name of
9 Sharif Mobley. Do you know who Sharif Mobley is?

04:33 10 A. Yes, I do.

11 Q. Who's Sharif Mobley?

12 A. Sharif Mobley is an individual originally from New Jersey,
13 who traveled to Yemen supposedly or allegedly to join al-Qaeda
14 in the Arabian Peninsula. He was captured after being wounded
04:34 15 by Yemeni security forces.

16 He was transferred to a hospital. He thereupon
17 attempted to escape from that hospital, killing a Yemeni
18 security guard. He was eventually recaptured, and I believe he
19 is now back in the United States.

04:34 20 Q. Was Sharif Mobley a natural born United States citizen, to
21 your knowledge?

22 A. He was a natural born US citizen. He is a convert to
23 Islam, and he was recruited by al-Qaeda in the Arabian
24 Peninsula.

04:34 25 Q. I would like to direct your attention to what has been

04:34 1 admitted as Government Exhibit 193; and there's been discussion
2 about this CNN article previously at trial, as well. This
3 article is entitled "Purported Al-Awlaki Message Calls for
4 Jihad Against the United States."

04:34 5 Are you aware of the circumstances surrounding
6 what's reported in this article?

7 A. Yes, I have -- I'm in possession of the audio recording
8 describing that article.

9 Q. And what is this article about?

04:34 10 A. Well, the audio recording itself that the article describes
11 was released by Sheikh Anwar al-Awlaki shortly after the Fort
12 Hood massacre. It was the first audio recording in which Anwar
13 al-Awlaki explicitly declared war, in his own voice, against
14 the United States, offering an explanation for why he was
04:35 15 declaring war against the United States, for why he had changed
16 from being, a quote, unquote, moderate Muslim to being a,
17 quote, unquote, extreme -- extremist, exploiting the genesis of
18 that, explaining the impact of him being in prison, et cetera,
19 et cetera. It was his open declaration of conflict with the
04:35 20 United States.

21 Q. I would like to direct your attention now to a video clip,
22 Government's Exhibit 71. I'm not going to play all of it, but
23 I want to play some. It's been played at trial previously.

24 *(Tape playing)*

04:36 25 BY MR. HEENAN:

04:36 1 Q. Mr. Kohlmann, are you familiar with this particular video?

2 A. I am familiar with it, and it is in my database.

3 Q. Is it also a video that appeared in the materials that the
4 FBI provided to you which you understood to be taken from
04:36 5 Mr. Bujol's computer?

6 A. That is correct, yes.

7 Q. And what is this video?

8 A. This video recording or video clip is an official video
9 clip produced by al-Qaeda's network in Yemen. This was
04:36 10 produced before al-Qaeda in Yemen became, AQAP, al-Qaeda in the
11 Arabian Peninsula. This was released in 2008.

12 What this video shows is a rocket attack on the
13 Safir Oil Refinery -- it's S-A-F-I-R Oil Refinery -- I believe
14 in Maarib Province in Yemen. This was one of the, again,
04:37 15 official video recordings produced by al-Qaeda's network in
16 Yemen at the time. And it was released on the website that you
17 saw previously shown here.

18 Q. Mr. Kohlmann, are you aware that al-Qaeda in the Arabian
19 Peninsula, that specific affiliate, has been designated by the
04:37 20 department of state as a foreign terrorist organization?

21 A. I am.

22 Q. Do you know when that decision occurred?

23 A. Not off hand, although I believe it was in 2009 or 2008.

24 Q. I would like to direct your attention now to Government's
04:37 25 Exhibit 285. And before I show this clip, sir, I just want to

04:37 1 mention that this has been shown previously here at trial and
2 this exhibit is admitted into evidence.

3 (Tape playing)

4 BY MR. HEENAN:

04:39 5 Q. Mr. Kohlmann, do you understand these two speakers to be
6 discussing a Quranic verse?

7 A. Yes.

8 Q. And what Quranic verse do you understand them to be
9 speaking about?

04:39 10 A. They're reading from the Chapter Surah al-Anfal, which
11 in -- A-N-F-A-L -- which in English is translated roughly to
12 "The Spoils of War." They're speaking about Verse 60, which is
13 often taken out of context by extremists to justify terrorism
14 and --

04:39 15 Q. How is it taken out of context?

16 A. Because if you keep reading in that verse -- or you keep
17 reading that chapter, there's a whole long list of
18 qualifications saying that you're not actually supposed to do
19 this unless there's no other option, you're supposed to seek
04:40 20 peace and accommodation and compromise.

21 But extremists don't really want to hear that.
22 So, they take this out of context, to say, "Well, look, here it
23 says terrorism, strike terrorism into the hearts of the enemies
24 of Allah. That means that causing terrorism is good, and it's
04:40 25 justified."

0 4 : 4 0 1 But the vast majority of Muslims do not believe
2 this to be applicable, of any school, do not believe this to be
3 applicable to present day circumstances; and they certainly do
4 not believe it's to justify terrorism.

0 4 : 4 0 5 THE COURT: Hold on one second, please.

6 THE WITNESS: Right.

7 (*Court confers with staff*)

8 THE COURT: All right. Sorry. Go right ahead.

9 BY MR. HEENAN:

0 4 : 4 2 10 Q. Mr. Kohlmann, I would like now to direct your attention to
11 Government's Exhibit 289, which is in evidence. And before the
12 clip starts, Mr. Kohlmann, this is another audio recording
13 between two speakers, that's been admitted previously in trial,
14 one of which is the defendant.

0 4 : 4 2 15 (*Tape playing*)

16 BY MR. HEENAN:

17 Q. Mr. Kohlmann, are you familiar with the reference to the
18 CIA officers that's discussed in this recording?

19 A. I am.

0 4 : 4 3 20 Q. What do you understand that reference to be?

21 A. I believe it is a reference to a suicide bombing attack
22 that took place on December 27th, 2009. It was a suicide
23 bombing attack by an individual who had self-radicalized over
24 the Internet and had traveled from Jordan to Pakistan,
0 4 : 4 3 25 supposedly in the service of the CIA and the Jordanian

0 4 : 4 3 1 intelligence service; but, in fact, he became a double agent on
2 behalf of al-Qaeda.

3 Al-Qaeda and the Pakistani Taliban gave him a
4 suicide bomb vest. He entered a CIA base on the
0 4 : 4 3 5 Afghan-Pakistani border, known as Camp Chapman,
6 C-H-A-P-M-A-N -- and he blew himself up, killing seven CIA
7 agents.

8 Q. Do you know what the Arabic word "alhamdulillah" means?

9 A. Yes.

0 4 : 4 3 10 Q. What does that mean?

11 A. "Praise be to God."

12 Q. Is this particular event, the killing of the CIA officers
13 at Camp Chapman, an event that you understand to be celebrated
14 in jihadist circles?

0 4 : 4 4 15 A. It's particularly celebrated because of the fact that this
16 individual, number one, infiltrated the CIA and infiltrated
17 Jordanian intelligence but most importantly because of the fact
18 that he self-radicalized, that he was a member on a jihadi
19 messaging forum. He was actually a member --

0 4 : 4 4 20 THE COURT: Slow down, please.

21 THE WITNESS: Excuse me, your Honor.

22 He was a member of the Fallujah Islamic Network,
23 one of the websites that was on this list and that he
24 eventually then, via that website, became a member of al-Qaeda.

0 4 : 4 4 25 BY MR. HEENAN:

04:44 1 Q. I would like to direct your attention now to the
2 Government's Exhibit 295, which is admitted into evidence. I'm
3 just going to play a brief 20 seconds at the beginning of this
4 clip.

04:45 5 *(Tape playing)*

6 BY MR. HEENAN:

7 Q. We're going to play it one more time. I'm sorry,
8 Mr. Kohlmann. The text didn't scroll at the bottom. We're
9 going to reload this clip.

04:45 10 *(Tape playing)*

11 BY MR. HEENAN:

12 Q. Mr. Kohlmann, were you able to hear the recording?

13 A. Yes, I was.

14 Q. And did you hear the reference in Arabic to al-Qaeda in the
04:46 15 Arabian Peninsula?

16 A. Yes. He said, "al-Qaeda fi Jazirat al-'Arab." It means
17 "al-Qaeda in the Arabian Peninsula."

18 Q. And that's an Arabic expression that you have heard
19 frequently and associate with al-Qaeda in the Arabian
04:46 20 Peninsula?

21 A. That is the verbatim way, in Arabic, that you refer to
22 al-Qaeda in the Arabian Peninsula. It is the verbatim
23 translation of "al-Qaeda in the Arabian Peninsula."

24 Q. Okay. Now, Mr. Kohlmann, I would like to show you what has
04:46 25 been admitted into evidence as Government's Exhibit 107. It's

0 4 : 4 6 1 a video clip entitled "For My Wife." It has been shown at
2 trial previously.

3 MR. HEENAN: Okay. Let me try to start this again
4 sir.

0 4 : 4 7 5 *(Tape playing)*

6 BY MR. HEENAN:

7 Q. Mr. Kohlmann, I would like to direct your attention to the
8 screen. And, again, this is Government's Exhibit 107, at one
9 second of the clip. Do you recognize what's depicted on the
0 4 : 4 7 10 screen right now?

11 A. Yes, I do.

12 Q. What is that that's depicted on the screen?

13 A. This is a video watermark. In other words, it's something
14 that's shown -- it shows in videos to watermark the owner or
0 4 : 4 7 15 the original creator of the video.

16 Q. Who created this mark?

17 A. This watermark is for something called the Ansar al Jihad
18 Network. This is, at the moment, probably the second most
19 important jihadi website on the Internet. It's the second most
0 4 : 4 7 20 important website to al-Qaeda on the Internet. It is a website
21 which is officially endorsed by the Taliban and by other jihadi
22 groups.

23 It is used by individuals to self-recruit. It
24 has been used by individuals inside the United States to try to
0 4 : 4 8 25 travel abroad and join jihadi organizations. And they put out

0 4 : 4 8 1 their own media, their own jihadi media. And anything they
2 produce, they put that in the front.

3 Q. Does this appear to be something that would have been
4 downloaded off the Internet and placed into this particular
0 4 : 4 8 5 exhibit?

6 A. Based on my review, this was cut and pasted out of another
7 video from the Ansar al Jihad Network into this video. That's
8 correct. It was borrowed.

9 Q. Okay. Continue watching.

0 4 : 4 8 10 *(Tape playing)*

11 BY MR. HEENAN:

12 Q. Mr. Kohlmann, I think you've already testified as to the
13 meaning of the "as-sadiqeen"; but, again, what is the
14 "as-sadiqeen"?

0 4 : 5 0 15 A. Well, "as-sadiqeen" means the truthful ones, the honest
16 ones. But in this context, I think it's fairly clear that it
17 is a direct synonym for the mujahideen, for the people that are
18 striving in the cause of Allah, that are striving in the cause
19 of God. And in this case it's in -- by this definition of the
0 4 : 5 0 20 "as-sadiqeen," this is the mujahideen, the people that are
21 fighting for Allah.

22 *(Tape playing)*

23 BY MR. HEENAN:

24 Q. Mr. Kohlmann, are you familiar with -- do you understand
0 4 : 5 0 25 what "Surah Tawba" is?

04:50

1 A. Yes.

2 Q. What is "Surah Tawba"?

3 A. This is another chapter of the Quran, like Surah al-Anfal,
4 this is Surah al-Tawba.

04:50

5 Q. And is this a section of the Quran that you understand to
6 be popular in global jihadists circles?7 A. This is one of the more popular chapters used by jihadis to
8 justify violent jihad.

9 Q. Now we're at one minute 39 seconds of the recording.

04:51

10 *(Tape playing)*

11 BY MR. HEENAN:

12 Q. Mr. Kohlmann, do you understand the speaker to be
13 discussing a section of the Quran here?

14 A. Yes.

04:51

15 Q. And it says "Sit" on the screen. We're at two minutes and
16 12 seconds of the exhibit video. What do you understand the
17 reference to "sit" to mean?18 A. Well, in the context of jihad or the context of the
19 ideology of jihadi, it's usually this is a reference to someone
20 who is a sitter, someone who is sitting at home. In other
21 words, if you believe in violent jihad, you have an obligation
22 not just to sit at home. And if you're sitting at home, if
23 you're sitting behind, if you're remaining behind and not
24 joining the front line, you're not following your ideology.

04:52

25 You're not following that which is required upon you to enter

04:52

1 paradise.

2 (Tape playing)

3 BY MR. HEENAN:

4 Q. And, Mr. Kohlmann, I'm going to try to capture a couple of
04:53 5 clips here, because they move pretty fast. So, bear with me.

6 A. No problem.

7 (Tape playing)

8 BY MR. HEENAN:

9 Q. I'm having a tough time. One moment.

04:54

10 (Tape playing)

11 BY MR. HEENAN:

12 Q. Directing your attention to the screen, we're at three
13 minutes 15 seconds of the exhibit.

14 Do you recognize the word on the screen? It's

04:54

15 "hijrah," which I believe you previously described. Do you
16 recognize the person on the screen over which the word "hijrah"
17 is superimposed?

18 A. Yes, I do.

19 Q. Who is that person?

04:54

20 A. That is a US national and Pennsylvania resident Colleen
21 LaRose, otherwise known as Fatima LaRose, F-A-T-I-M-A, LaRose.

22 Q. Is she also referred to in the public press as "Jihad
23 Jane"?

24 A. She -- yes. She referred to herself online and she has
04:54 25 since been referred to in the media as Jihad Jane.

04:54 1 Q. Do you ascribe any significance to the word "hijrah" paired
2 with the photograph of Ms. LaRose?

3 A. Ms. LaRose is not a cleric; and she has no association
4 whatsoever with the religion of Islam or any concept of Islam,
04:55 5 other than jihad.

6 She's primarily known, she's only known for the
7 fact that she has pled guilty to attempting to travel overseas
8 in a hijrah, what she described as a "hijrah" to participate in
9 violent jihad in Pakistan, Afghanistan, and eventually inside
04:55 10 Europe. She conspired to try to murder individuals inside of
11 Europe in the name of jihad.

12 Q. I direct your attention -- if I can get the next clip --

13 *(Tape playing)*

14 BY MR. HEENAN:

04:55 15 Q. One more time.

16 *(Tape playing)*

17 BY MR. HEENAN:

18 Q. Do you recognize that individual?

19 A. Yes, I do.

04:55 20 Q. And who is that?

21 A. That is Sheikh Osama bin Mohammed bin Laden, the founder of
22 al-Qaeda.

23 Q. And do you ascribe any meaning to the word that is
24 superimposed over his image at 3:16 of the exhibit, three
04:56 25 minutes and 16 seconds, "jihad"?

0 4 : 5 6 1 A. Yeah. It's "jihad." And paired with the image of bin
2 Laden, there cannot be any other explanation other than holy
3 war, violent holy struggle. It could not refer to internal
4 struggle. Osama bin Laden has no association with the internal
0 4 : 5 6 5 meaning of jihad.

6 Q. I'm going to try to capture one more still, immediately
7 before the bin Laden photograph and immediately after the
8 Colleen LaRose photograph. And if I can't get it, I'll just
9 ask you to talk about it.

0 4 : 5 6 10 A. Uh-huh.

11 *(Tape playing)*

12 BY MR. HEENAN:

13 Q. Were you able to see the individual who appeared to be in
14 handcuffs on the frame immediately before the one depicting
0 4 : 5 6 15 Osama bin Laden?

16 A. Yes. I'm familiar with that image.

17 Q. Did you also see that the word "hijrah" was superimposed
18 over that individual's photograph, as well?

19 A. Yes, I did.

0 4 : 5 6 20 Q. Who was the person depicted in that photograph who was in
21 handcuffs, being accompanied by FBI agents?

22 A. That person is US national Najibullah Zazi,
23 N-A-J-I-B-U-L-L-A-H, Z-A-Z-I.

24 Q. Do you ascribe any significance to the fact that the word
0 4 : 5 7 25 "hijrah" was superimposed over Najibullah Zazi's picture just

04:57 1 as it was over Colleen LaRose's picture?

2 A. Once again, Najibullah Zazi is not a cleric. He is not
3 known in Islam. He has no status in Islam. He's a nobody.

4 His only claim to fame is that he traveled to
04:57 5 Pakistan to join al-Qaeda, where he attended a training camp
6 and learned how to build explosives. He thereupon returned to
7 the United States in a bid to bomb the New York City subway
8 system.

9 There's no meaning whatsoever of his name or his
04:57 10 personage to Islam. The only meaning I can see with regards
11 "hijrah," with him, is the fact that he made hijrah to Pakistan
12 to attend a training camp there to learn how to build
13 explosives.

14 Q. And to be clear, it was after he performed -- Najibullah
04:58 15 Zazi performed that hijrah that he returned to the United
16 States and engaged in a conspiracy to detonate bombs in the New
17 York subway system?

18 A. That's correct. And I believe he also referred to it as a
19 "hijrah."

04:58 20 And, once again, you can notice that this picture
21 was taken after his arrest. He did plead guilty, I believe, as
22 well.

23 Q. I'll continue with the video, sir.

24 *(Tape playing)*

04:59 25 BY MR. HEENAN:

05:00 1 Q. Mr. Kohlmann, I may have cut it off; but in terms of the
2 audio, the still that's at four minutes and 47 seconds of this
3 exhibit, what was the organization the speaker was describing?

4 A. He said the "Mujahideen fi Jazirat al-'Arab," which is the
05:00 5 Mujahideen in the Arabian Peninsula. The only mujahideen in
6 the Arabian Peninsula are al-Qaeda in the Arabian Peninsula,
7 known as "AQAP."

8 Q. And in fact is "AQAP," those letters, superimposed over the
9 photograph that appears at 4:47 of this clip?

05:00 10 A. Yes, "AQAP," al-Qaeda in the Arabian Peninsula. And the
11 individuals you see in the back there are the original founders
12 of al-Qaeda in the Arabian Peninsula.

13 Q. Mr. Kohlmann, I'm going to back out a little bit from this
14 photo so all four people can be seen; and then ask you some
05:00 15 questions.

16 A. Sure.

17 Q. With respect to the photograph on the screen -- and there
18 are four individual depicted there -- we're at 4:48 of the
19 clip -- you said you recognize who these individuals are?

05:01 20 A. Yes.

21 Q. Who are the four individuals? And if you could start from
22 left to right and describe them individually.

23 A. Of course. On the left, very far left, you have a Yemeni
24 national whose real name is Qasim al-Rimi, Q-A-S-I-M, A-L,
05:01 25 dash, R-I-M-I. He is a senior military commander of al-Qaeda

05:01 1 in the Arabian Peninsula. He is within the top three or
2 four -- the top leaders of the group.

3 To his right is Saudi Arabian national Said
4 al-Shehri, S-A-I --

05:01 5 THE COURT: To his right? Or looking at it to the
6 right, going left to --

7 THE WITNESS: Coming from left to right, exactly, your
8 Honor.

9 THE COURT: You're reading the photo from the reader's
05:01 10 left to right.

11 THE WITNESS: Correct, from there to there, your
12 Honor.

13 THE COURT: Correct.

14 THE WITNESS: Right.

05:01 15 So, the individual who's sitting kind of right in
16 front of the flag right there, that individual is Said
17 al-Shehri, S-A-I-D, S-H-E-H-R-I. Said al-Shehri is a senior
18 member of al-Qaeda in Saudi Arabia. He was captured in
19 Afghanistan in approximately 2001 and was transferred to
05:02 20 Guantanamo Bay, Cuba.

21 He was released from Guantanamo Bay in 2007,
22 returned to Saudi Arabia, and then promptly rejoined al-Qaeda
23 by traveling into Yemen. He is currently considered to be
24 among the top two leaders of al-Qaeda in the Arabian Peninsula.

05:02 25 To his right is Abu Basir --

05:02 1 BY MR. HEENAN:

2 Q. To our right, I think you said. I think you're talking
3 about third person from the left --

4 A. Exactly. I should be clear. The individual wearing the
05:02 5 white turban, with the missile sitting directly in front of
6 him, the missile on the ground, sitting directly in front of
7 him, that is Abu Basir al-Wahishi -- A-B-U, B-A-S-I-R, A-L,
8 dash, W-A-I -- excuse me -- W-A-H-I-S-H-I -- otherwise known as
9 Nasir al-Wahishi, N-A-S-I-R, al-Wahishi. He is the official
05:03 10 emir, or top commander, of al-Qaeda in the Arabian Peninsula.

11 The individual on the very far right, with the
12 black turban, is Mohammed -- Saudi Arabia national Mohammed
13 al-Harbi, H-A-R-B-I. Mr. al-Harbi was also captured in 2001 in
14 Afghanistan while fighting coalition forces. He was
05:03 15 transferred to Guantanamo Bay, Cuba. He was also released from
16 Guantanamo Bay in 2007.

17 He returned to Saudi Arabia and, like
18 Mr. al-Shehri, crossed into Yemen and promptly rejoined
19 al-Qaeda. If he's still alive and if he is still at large, he
05:03 20 is also considered to be among the top three leaders of
21 al-Qaeda in the Arabian Peninsula.

22 THE COURT: Hold it just one second.

23 *(Court confers with staff)*

24 THE COURT: All right. Let's get back on the record,
05:05 25 and let's go. Thank you.

05:05 1 BY MR. HEENAN:

2 Q. Mr. Kohlmann, you were describing -- or you had described
3 now the four individuals depicted in this photograph at 4
4 minutes and 48 seconds of Government's Exhibit 107. You
05:05 5 described them, I believe, as the senior leadership of al-Qaeda
6 in the Arabian Peninsula.

7 Are you familiar with the flag that appears in
8 the background, behind these individuals?

9 A. Yes. That is the official flag used by al-Qaeda in the
05:05 10 Arabian Peninsula as their official banner. It is also used by
11 al-Qaeda in Iraq and occasionally by Shabaab al-Mujahideen in
12 Somalia. But it is the official banner of al-Qaeda in the
13 Arabian Peninsula.

14 Q. Are you aware of the circumstances surrounding the creation
05:05 15 of this particular photograph?

16 A. Yes.

17 Q. What was this particular photograph created for?

18 A. This is a still image taken from a video recording which
19 was originally released in January of 2009. It is an official
05:06 20 video recording produced by al-Qaeda in the Arabian Peninsula.
21 It was released to announce the coming-out party of al-Qaeda in
22 the Arabian Peninsula.

23 It was released to announce the merger of
24 al-Qaeda in Yemen with al-Qaeda in Saudi Arabia to form
05:06 25 al-Qaeda in the Arabian Peninsula. This is the very first

05:06 1 video, official video, produced by al-Qaeda -- the unified
2 al-Qaeda in the Arabian Peninsula in Yemen.

3 Q. And, Mr. Kohlmann, just a moment ago I believe you saw that
4 the letters "AQAP" were superimposed over this particular
05:06 5 photograph.

6 A. Uh-huh.

7 Q. Is it fair to say that the person who made this video was
8 accurate in placing those letters "AQAP" over this photograph?

9 A. One hundred percent. That's exactly accurate. Al-Qaeda in
05:06 10 the Arabian Peninsula, AQAP, this is the iconic image and this
11 is the top four leaders of the organization, the top four.
12 There's no one higher than these four.

13 Q. Thank you, Mr. Kohlmann. I have no further questions.

14 MR. HEENAN: Your Honor, I pass the witness.

05:07 15 THE COURT: Mr. Bujol, please.

16 **CROSS-EXAMINATION**

17 BY THE DEFENDANT:

18 Q. All right. I'll stick with the video.

19 Being that these are the top four leaders, that
05:07 20 automatically, I'm assuming, gives them a role of prominence,
21 correct?

22 A. They are fairly prominent within the world of jihad, yes.

23 Q. In your understanding of the world of jihad and prominence
24 with respect to prayer, where would they pray if they were to
05:07 25 be in prayer session?

05:07

1 A. You mean what direction would they pray to?

2 Q. No. Where would they pray in -- would they pray in the
3 front of the prayer group or in the middle or the back?

4 A. I have no idea what their prayer practice -- or where

05:07

5 they're locate -- generally speaking, the leaders of an
6 organization sit in the front when they pray; but that may or
7 may not be the case, depending on operational security and a
8 variety of other circumstances.

9 Q. Okay. And you mentioned earlier that the term

05:08

10 "as-sadiqeen" is synonymous with the term "mujahideen,"
11 correct?

12 A. I didn't say it was synonymous in all cases. I said that
13 in the context here it is synonymous with "mujahideen," yes.

14 THE DEFENDANT: I would like to go back to the clip

05:08

15 where the word "as-sadiqeen" is used and it's superimposed over
16 an image.

17 *(Tape playing)*

18 BY THE DEFENDANT:

19 Q. Looking at this photo, can you identify these individuals
20 as the same individuals that were in the same photo we just
21 looked at?

05:08

22 A. I don't believe they are, no.

23 Q. Well, if the defendant identifies these people as one and
24 the same, why didn't he just put the image here with

05:09

25 "as-sadiqeen" instead of referring to this as a separate and

05:09 1 distinct entity from himself?

2 MR. HEENAN: Object as to form, your Honor.

3 THE COURT: I don't understand the question, but our
4 expert might. So --

05:09 5 Do you understand the question?

6 THE WITNESS: Your Honor, I'm afraid I don't
7 understand the question.

8 THE COURT: Okay. Rephrase it, please. Just rephrase
9 it, sir.

05:09 10 BY THE DEFENDANT:

11 Q. Is it safe to say that a person who, in the jihadi context,
12 would make one term synonymous with another, to impose an image
13 of al-Qaeda with regards to this term than to some unknown
14 image with non-fighters behind them? [sic]

05:10 15 A. I have no idea what organization these individuals are, but
16 clearly they're armed individuals. They are praying. It's the
17 traditional Muslim prayer.

18 I think under most circumstances they would
19 generically be described as "mujahideen." But I don't think
05:10 20 there's any way of knowing from this image alone what conflict
21 zone they're from, what conflict zone they're fighting in, what
22 the context is that they're praying to.

23 Clearly, though, the vast majority of Muslims,
24 when they're describing the as-sadiqeen, would not be
05:10 25 describing armed individuals wearing masks as the honest ones

05:11 1 or the truthful ones.

2 Q. Is everyone in the photo armed and wearing masks?

3 A. No.

4 THE DEFENDANT: Your Honor, at this time I would like
05:11 5 to submit the expert report, if it's not already submitted, as
6 Exhibit 4.

7 THE COURT: Whose expert report?

8 THE DEFENDANT: Mr. Kohlmann's expert report.

9 THE COURT: I just need to tell you that in all my
05:11 10 experience, civil and criminal cases, I do not permit expert
11 reports in evidence. You can use it; you can cross-examine him
12 from it; but I do not admit them into evidence.

13 Unless the government has no objection. Do you
14 have any objection? It's strictly up to you.

05:11 15 MR. HEENAN: No objection, your Honor.

16 THE COURT: All right. No objection. That's fine.

17 All right, sir. Then your exhibit, Defendant's
18 Exhibit Number 4, without objection, is admitted into evidence.

19 Go right ahead, sir.

05:12 20 BY THE DEFENDANT:

21 Q. Document's essentially divided into sections dealing with
22 characteristics that are endemic amongst what is known as a
23 homegrown terrorist, one of which is the formulation of
24 self-selecting schemes aimed at traveling abroad to join
05:12 25 foreign terrorist organizations and/or achieving imminent acts

05:12 1 of physical violence.

2 A. That's correct, yes.

3 Q. And you mention that, in your assessment, from the context
4 of conversations, that the defendant is not simply referring to
05:12 5 making a traditional mandated pilgrimage or even to live in a
6 country governed by Islamic Sharia law. What conversations are
7 you referring to here?

8 A. The conversations referring to the Mujahideen fi Jazirat
9 al-'Arab, the conversations referring to using logistical
05:13 10 subterfuge to gain entry into Yemen, the conversations talking
11 about AQAP, none of these things are consistent with a
12 religious pilgrimage or going to live in a country of Sharia.
13 If you went to go to live in Yemen under Sharia and you began
14 advertising your interest in al-Qaeda, you would end up in
05:13 15 jail, just like Anwar al-Awlaki did.

16 Q. So, these were conversations between the defendant and the
17 confidential source?

18 A. I believe so, yes.

19 Q. Okay. I want to go to a -- you wrote here that the
05:14 20 defendant says, "We have to make an escape from -- because it's
21 a shame, for me to be a Muslim is really shameful to be a part
22 of this and live here. I cannot look myself in the face and
23 say that I am from the nation of the Prophet Muhammad and just
24 continue to live here, go to the mosque and make prayers.

05:14 25 You're contributing to this infidelity. You're paying into

05:14 1 this infidelity. You're strengthening the numbers of the
2 infidels. You're strengthening their ability. I want to get
3 out of here."

4 Do you recognize this statement?

05:14 5 A. I believe so, yes.

6 Q. And who is this statement from?

7 A. I believe it's from yourself, the defendant.

8 Q. Okay. And where in this statement does the defendant
9 suggest that he wants to commit imminent acts of violence?

05:15 10 A. That's not about committing imminent acts of violence.
11 That's about the idea of the imminency of leaving; in other
12 words, the idea that there -- part of understanding whether or
13 not someone is a threat or understanding whether someone is
14 really radicalized is understanding about the imminency, about
05:15 15 how much they want to travel abroad to join a jihadi
16 organization, how much do they want to carry out an act of
17 violence.

18 THE COURT: Slow down, please.

19 THE WITNESS: Excuse me, your Honor.

05:15 20 When someone continually discusses about their
21 imminent desire to leave, that is an indicator of imminency,
22 that they really are interested in this; this is not just a
23 passing fancy; this is something that they are obsessed with.

24 BY THE DEFENDANT:

05:15 25 Q. So, you don't understand this, that a person could also see

05:15 1 himself as residing in one place and paying and contributing
2 taxes as also being a source of his imminence in wanting to
3 leave?

4 A. Oh, no, no. Certainly so. And I think if you took that
05:16 5 statement out of context alone, it's possible.

6 But not in the context of the other
7 conversations. And the other conversations, paired with that,
8 make it clear that this is not simply about leaving the United
9 States and avoiding paying taxes, that this is something having
05:16 10 to do with joining -- again, verbatim, joining the Mujahideen
11 fi Jazirat al-'Arab, joining the Mujahideen in the Arabian
12 Peninsula.

13 Q. Okay. You mention that this person talks about an
14 opportunity, an opportunity to go and join the mujahideen in
05:17 15 the Arabian Peninsula.

16 A. Uh-huh.

17 Q. You mentioned also the Sharif Mobley case, wherein he
18 traveled to Yemen and received training there. Is that
19 correct?

05:17 20 A. That is my understanding, yes.

21 Q. Okay. And you're also familiar with the underwear bomber,
22 who traveled and received training in Yemen. Is that correct?

23 A. Umar Farouk Abdulmutallab, yes, I am.

24 Q. So, it isn't to your knowledge that the organization of
05:17 25 al-Qaeda in the Arabian Peninsula has training camps in Yemen?

05:17 1 A. Yes. They are not -- they are not static training camps.
2 They're not based in one physical location and they stay there.
3 They're mobile training camps. They set them up in the desert
4 and in remote areas, depending on when there are trainees
05:18 5 available for such sessions.

6 Q. Okay. Where do these remote camps tend to -- are they
7 trying to avoid detection or what's the -- what's the -- is it
8 just counter security?

9 A. What is "counter security"? I'm sorry. I don't
05:18 10 understand.

11 Q. Having a roving location on these -- on these camp sites.

12 A. I believe the -- the concern is because of drone strikes.
13 The concern is that if you have a physical camp located
14 somewhere, both the Yemeni Air Force and US-built drone
05:18 15 aircraft are capable of launching strikes on those camps and
16 destroying them.

17 The camp that we have the most information on was
18 actually featured, I believe, in a video recording which was
19 recovered from the hard drive presented to me in this case.

05:18 20 Q. And where was that camp?

21 A. I'm not certain offhand. I believe it was in Maarib
22 Province in Yemen. It was either Maarib or al-Jawf. Al-Jawf
23 is -- J-A-W-F. It's a region up near the Saudi border.

24 Q. Okay. So, would you say that these roving camps are in a
05:19 25 geographical area of Northern Central Yemen, Southern Central?

05:19 1 A. My understanding is that there are training camps in
2 various different locations in Yemen. There's al-Jawf, which
3 is the northern part, near the Saudi border. However, more
4 recently, there are also camps farther south, near the Gulf of
05:19 5 Aden, on the coast.

6 There are a variety of different al-Qaeda cells
7 now active in Yemen. They all operate under AQAP, but they are
8 located in various different regions, presumably so that they
9 can launch operations across the entire country versus being
05:19 10 centralized in one location.

11 Q. And, so, being that you recovered a featured camp location
12 off the defendant's computer, is it safe to say that he was in
13 fact aware to some extent of these camps existing in Yemen
14 itself?

05:20 15 A. Yeah. Again, I don't know per se whether or not they
16 identified the actual physical location of where the camp was
17 in Yemen. But I can say for sure that there was video footage
18 of one of those training camps in a video recording recovered
19 from the hard drive presented to me in this case.

05:20 20 Q. Okay. With that said and the defendant's presumed
21 knowledge, are you aware -- with that said and the presumed
22 knowledge, would the defendant reasonably believe that he's
23 going to a country that's not in the Arabian Peninsula, doesn't
24 border the Arabian Peninsula, but is going to get trained at a
05:21 25 camp by al-Qaeda in the Arabian Peninsula?

05:21 1 MR. HEENAN: Objection, your Honor. Calls for a legal
2 conclusion, I think, on the charges in this case.

3 THE COURT: I didn't understand the question.

4 Did you understand it?

05:21 5 THE WITNESS: I think so, your Honor.

6 THE COURT: Okay. Overrule the objection. You may
7 answer.

8 THE WITNESS: I think so.

9 The fact is that AQAP has networked with several
05:21 10 other al-Qaeda affiliates, including Shabaab al-Mujahideen in
11 Somalia, and I believe also al-Qaeda in the Islamic Maghreb in
12 Algeria. These organizations tend to communicate with each
13 other privately as well as publicly. They share resources.

14 Even Anwar al-Awlaki has issued open statements
05:21 15 on behalf of AQAP to some of these organizations. I believe it
16 would be feasible for AQAP to network with these groups in
17 order to share recruits and in order to provide a travel path
18 for those recruits into Yemen. Yes, I believe that is
19 possible. And moreover, likely.

05:22 20 BY THE DEFENDANT:

21 Q. Okay. From your analysis of the conversation that took
22 place between the defendant and the informant, did he discuss
23 the group al-Shabaab that you mentioned?

24 A. You know, I don't recall specifically offhand.

05:22 25 Q. And what was the other group you mentioned?

05:22 1 A. Al-Qaeda in the Islamic Maghreb, AQIM, which was the
2 regional al-Qaeda affiliate -- excuse me -- "Maghreb" is
3 M-A-G-H-R-I-B [sic]. It is the regional al-Qaeda affiliate in
4 Algeria, primarily based in Algeria.

05:22 5 Excuse me. I should go back, though, for a
6 second. I do recall there were -- I don't recall if there was
7 any discussions involving Shabaab. However, I do recall that
8 of the materials that I was presented with recovered from the
9 hard drive --

05:23 10 THE COURT: Slow down, please.

11 THE WITNESS: Excuse me, your Honor.

12 -- there were images, still images, taken from
13 official video recordings produced by Shabaab al-Mujahideen in
14 Somalia. In other words, there were excerpts of propaganda,
05:23 15 produced by Shabaab, on the hard drive presented to me.

16 BY THE DEFENDANT:

17 Q. You said in this report that, during the recorded
18 conversations, the defendant referred to AQAP as the "faithful
19 fighters," in quotation marks. And below that, there's a
05:24 20 number, a superscripted number "15," which refers to a footnote
21 from a transcript that was dated January 20th of 2010.

22 A. I believe so. I don't have a copy of the report in front
23 of me; but I believe that is correct, yes.

24 Q. However, are you aware that the defendant was never told --
05:24 25 or al-Qaeda was never mentioned until March 14th of 2010?

05:24 1 A. I'm not familiar with that if that is the case.

2 Q. Well, I would like to show you the transcript from
3 March 14th of 2010, wherein the CHS, in fact, opens the secret
4 with regards to his true affiliations, or his heretofore
05:25 5 undisclosed affiliations.

6 It's Page 30 on the transcript. Basically says,
7 "I'm part of the group. That has a name."

8 "We just call it whatever name it is. So, in
9 Iraq they call us insurgents. You know? In Afghanistan they
05:25 10 have -- they call us something" -- "you know? And
11 Al-Jazeera" -- "but in all of them, we're really one. One
12 group."

13 "However" -- "the group that I work for
14 specifically is what they call it" -- "al-Qaeda" -- in the
05:26 15 Arabian Peninsula.

16 Having said that, how is it possible for the
17 defendant to have referred to al-Qaeda in the Arabian
18 Peninsula?

19 Or would you please show us where the defendant
05:26 20 referred to al-Qaeda in the Arabian Peninsula as the "faithful
21 fighters"?

22 A. I would have to see the transcript to be specific, but I
23 believe it is correct that the defendant in this case was aware
24 of the existence and the nature of al-Qaeda in the Arabian
05:26 25 Peninsula before it was -- before the CHS introduced himself as

05:26 1 being a representative of the AQAP.

2 In other words, simply -- simply knowing about
3 AQAP would have been enough to refer to them as the "faithful
4 fighters." That was my interpretation.

05:26 5 But I don't have the report in front of me, and I
6 don't have the transcript in front of me. That is my
7 recollection, however.

8 THE DEFENDANT: At this time the defendant would move
9 to have the audio recording from January 20th admitted into
05:27 10 evidence, along with the accompanying transcript, because there
11 doesn't exist a single statement mentioning al-Qaeda in the
12 Arabian Peninsula.

13 MR. HEENAN: Your Honor, these two items are already
14 in evidence; and I will provide the numbers to the Court here
05:27 15 in just a moment.

16 THE COURT: Okay.

17 THE DEFENDANT: Well, there's actually excerpts.
18 And -- well, you can provide the excerpts, which don't contain
19 the defendant --

05:27 20 THE COURT: We're not going to play the whole thing.

21 THE DEFENDANT: Yeah. Well, just -- you can look at
22 the transcript and read it. I mean -- or whatever you want to
23 do.

24 THE COURT: All right. If you want. It's a non-jury
05:27 25 case, if you want to hand it up and tell me which -- what you

05:27 1 want me to read, I'll do it right now. How many excerpts are
2 there?

3 MR. HEENAN: Your Honor, I believe the excerpt that
4 Mr. Bujol is referring to is an excerpt from Government's
05:28 5 Exhibit 312, which is from the January 20th, 2010, meeting
6 between the source and Mr. Bujol.

7 THE COURT: All right. How long is it?

8 MR. HEENAN: It's a one -- I think one paragraph.

9 May I confer with Mr. Bujol?

05:28 10 *(Mr. Heenan confers with defendant)*

11 THE DEFENDANT: Actually, what that is, is the
12 defendant referring to a purported news article he had read --

13 THE COURT: All right. Let me ask you this. Why
14 don't you -- if it's not too long, why don't you find it and
05:28 15 read it? Okay? If you find and read the excerpt that you
16 want -- you're looking for a particular excerpt, that's the
17 easiest way to do it. I'll be glad to consider it.

18 All right. While Mr. Bujol is looking this up,
19 the government, tell me what's the date of this?

05:29 20 MR. HEENAN: If this is, in fact, the meeting that he
21 is looking to get an excerpt from, it's a January 20th, 2010,
22 meeting between the source and Mr. Bujol. And it's
23 Government's Exhibit 312, the transcript.

24 THE COURT: Okay.

05:29 25 THE DEFENDANT: Okay. This is on Page 3, and it just

05:29

1 says --

2 THE COURT: Okay. You can read. And it's Page --

3 THE DEFENDANT: Yes. It says --

4 THE COURT: Hold it. Wait a second.

05:29

5 It's on Page 3 of that exhibit. Is that correct,
6 sir?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: All right. Why don't you read what -- the
9 questions and answers and who's talking. Okay?

05:29

10 THE DEFENDANT: Well, it's just me talking. And I'm
11 talking about how the news comes on and I've been trying, in my
12 efforts to learn Arabic, listen to the news stations in Arabic.
13 Because the first time, it's really fast and I don't understand
14 it. Then, the second time, I start hearing it and I'm

05:30

15 trying -- and I am giving him an example, and I am talking
16 about how there was a report where more than 40 men, women, and
17 children were killed.

18 MR. HEENAN: Your Honor, I object. The defendant is
19 testifying right now. We can read the transcript, read the
20 excerpt.

05:30

21 THE COURT: Exactly. I'll allow you to read the
22 excerpts.

23 THE DEFENDANT: Oh, okay.

24 THE COURT: Just read it. What page are you on?

05:30

25 Three?

05:30 1 THE DEFENDANT: Yes.

2 THE COURT: Okay. Read what you want in.

3 THE DEFENDANT: "Then" -- "so I can understand it,
4 because the first time is really fast and I may not
05:30 5 understand" --

6 THE COURT: Hold it, sir. Hang on. Now, you heard
7 me. People have a tendency to speed up when they read. Court
8 reporter needs to take it down and get it accurately. So, if
9 you would, start again, please.

05:30 10 THE DEFENDANT: Okay.

11 THE COURT: Go on.

12 THE DEFENDANT: "Then" -- "so I can understand it,
13 because the first time is really fast and I may not understand,
14 then the second time, I'll look and I can -- I can start to
05:31 15 hear what the person is saying, because, you know, it's the
16 news. They're -- they're -- but I can get it, like, for
17 example" -- "al-Qaeda in the Arabian Peninsula" -- "in the
18 Arabian Peninsula -- after, after, after, before" --

19 And this part here is embolded; so, it's in
05:31 20 Arabic.

21 -- "before, before, before, before one month ago,
22 the United States and the Yemeni government attacked al-Qaeda
23 in the Arabian Peninsula" -- "in the Arabian Peninsula by
24 weapons and killed" -- "more than 40 children, women, and men."

05:31 25 Now, this isn't -- this is just a reported news

05:31 1 article. It's not me referring to these people as the
2 "faithful fighters."

3 THE COURT: Okay. What's your question now?
4 BY THE DEFENDANT:

05:32 5 Q. My question is where is it in this document where I am
6 referring to this organization as "faithful fighters" as it's
7 reported because --

8 THE COURT: In his report?

9 THE DEFENDANT: As it's reported in his report.

05:32 10 THE COURT: Okay. Why don't you hold it right there.
11 Can you answer that?

12 THE WITNESS: Your Honor, I would have to refer back
13 to the transcripts. I know that it's in there.

14 The specific reference there is to an air strike
05:32 15 that took place in December of 2009, targeting a group of AQAP
16 fighters. And the reference was to, again -- but that was --
17 again, it was my conclusion based upon all the evidence that I
18 looked at; it was based upon reading all the transcripts; and
19 it was based upon the comments of the defendant. That's all I
05:32 20 can say.

21 THE COURT: All right. Now you have to move on. Go
22 right ahead, sir.

23 BY THE DEFENDANT:

24 Q. Also in this report, you mention that, in spite of visiting
05:33 25 the site by Anwar al-Awlaki, that not everyone who went to that

1 site went on to commit acts of terrorism. Is that correct?

2 A. A hundred percent, that's a hundred percent correct.

3 Q. So, then, based on that, it is safe to say that everyone
4 who's ever heard of this individual or listened to this

5 individual hasn't aspired to become a terrorist and/or a
6 suicide bomber?

7 A. Not everyone.

8 Q. Okay. When we looked at the "My Wife" video, one of the
9 images shown was that of Colleen LaRose, aka Jihad Jane, with a
10 superimposed word "hijrah." Is that correct?

11 A. That is correct, yes.

12 THE DEFENDANT: And at this time I would like to point
13 to Government's Exhibit 186, which is an article sent by the
14 defendant to the CHS.

15 BY THE DEFENDANT:

16 Q. If I could direct your attention to the bottom of the
17 article, down where it's -- next to the date, it says March 15,
18 2010. And you see a one of characters next to it. What is
19 that?

20 A. That is the URL, the "Universal Resource Locator." In
21 other words, the address it was on the Internet.

22 THE DEFENDANT: Okay. At this time, your Honor, I
23 would like to admit into evidence an e-mail from the defendant
24 to the CHS with the URL to this -- this article here.

25 THE COURT: You got it there?

05:37 1 THE DEFENDANT: Yes, sir.

2 THE COURT: Okay. Why doesn't the government take a
3 look at it, see if you have any objection?

4 MR. HEENAN: I believe this is already in evidence as
05:37 5 a government exhibit, but I can't recall offhand. So, I have
6 no objection, though, to this --

7 THE COURT: To it coming in?

8 MR. HEENAN: To it coming in.

9 THE COURT: All right. We'll mark it Defendant's
05:37 10 Number 5. Group of e-mails, correct?

11 THE DEFENDANT: Yes.

12 THE COURT: Okay. I'm saying both to my staff and
13 everyone here, let's make sure we keep track of these so at the
14 end we have a copy of the defendant's exhibits also to stay
05:37 15 with the case.

16 So, that's Defendant's Number 5, admitted into
17 evidence. A group of e-mails. Right?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Okay.

05:38 20 BY THE DEFENDANT:

21 Q. What is your -- in the realm of Salafi jihadists, how would
22 they identify with the actions of Ms. LaRose?

23 A. There's a mixed reaction. Some people have been very much
24 inspired by what she did and what she was trying to do and who
05:38 25 she is. Others felt that her approach was foolish and that,

05:38 1 while her intentions were good, her approach was overly brash
2 and she -- she attracted too much outside attention with her
3 activities on YouTube and elsewhere. So, it's mixed.

4 I think the Salafi-Jihadis, in general, would
05:38 5 agree with her intentions; but her methodology in terms of
6 trying to achieve hijrah and join a violent jihadi
7 organization, I think it's fair to say there are some that
8 might quibble with that.

9 Q. So, she was making -- strike the last question.

05:39 10 So, in spite of the fact that there's a mixed
11 reaction, would you say that there is a universal acceptance of
12 her attempted or aspired actions?

13 A. Universal in --

14 Q. In the Salafi-Jihadi community.

05:39 15 A. I can't speak for all Salafi-Jihadis. But I can say Jihad
16 Jane was -- Colleen LaRose was specifically hailed by al-Qaeda
17 in the Arabian Peninsula in its "Inspire" magazine as being an
18 unjustly held prisoner, as being a hero of Islam. However, I'm
19 also aware that there are those within her immediate network
05:39 20 online, who are Salafi-Jihadis, who, you know, very much agreed
21 with her intentions, just felt that she approached this in the
22 wrong way, that she should have done this in a more secretive
23 or in a way that employed more subterfuge rather than openly
24 identifying herself on YouTube.

05:40 25 Q. So, again, my question is, they didn't condemn her actions;

05:40 1 they just condemned her way of going about achieving those
2 actions or achieving those goals?

3 A. I mean, anyone that believes in the concept of traveling
4 abroad to join in a violent jihad, yeah, of course, they would
05:40 5 support anyone who tried traveling abroad and joining a violent
6 jihad. And that's exactly what Colleen LaRose was trying to
7 do. I think that's why al-Qaeda in the Arabian Peninsula
8 hailed her in the "Inspire" magazine.

9 Q. Okay. At this time I want to bring your attention to this
05:40 10 previously submitted e-mail, the subject title is "Even looking
11 at Sisters," where it says, "I want you to take a look at this
12 following article. This is ridiculous. I just think it's some
13 kind of false prop to start -- to justify starting to harass
14 sisters, as well."

05:41 15 And then the author, who's the defendant, says,
16 "I ask Allah that he make a way out for all sincere Muslims
17 before they are stuck in the land of kufr or disbelief, ameen."

18 What are you familiar with at any time with the
19 term "ameen"?

05:41 20 A. "Ameen"?

21 Q. Yes.

22 A. "Amen."

23 Q. "Amen," correct?

24 A. Yes.

05:41 25 Q. I would like to go at this time to -- I would like to go

05:41 1 back to the March 14th transcript, wherein the -- the defendant
2 says, after sending this e-mail, "she was just a person who
3 was, you know, on her own and was trying to find out and asking
4 too many -- asking and trying to do the wrong things, asking
05:42 5 and trying to do the wrong things by herself. Because I did
6 find the court complaints. She has actually been arrested for
7 five months, and they just now put it out because they want
8 to -- like you said, it's a scare tactic. They want to gain
9 popular support and then they show that they are doing their
05:43 10 job. But they arrested her, and she already came back from
11 Europe. They knew she was not a threat. They knew -- okay.
12 This is just a woman, you know, asking the wrong questions.
13 She wanted to marry a brother overseas, and she went over there
14 to I guess meet the brother or whatever. And she was coming
05:43 15 back, and they arrested her. So, it's not -- it's not --
16 it's -- it's -- she's not a threat at all. But they want to
17 try to make it, you know, look like they're doing."

18 Again, with her actions being hailed in the
19 jihadi aspiring terrorist community, would that be consistent
05:43 20 with someone saying "she was asking and trying to do the wrong
21 things"?

22 A. I'm not sure I understand the question.

23 Q. When the defendant states in this -- according to this
24 document, that Jihad Jane is asking and trying to do the wrong
05:44 25 things, is that consistent with what you have previously

05:44 1 denoted as a "praise" of her activities?

2 A. I'm sorry. I still don't think I fully understand what the
3 question is. Can you clarify a little bit?

4 Q. Would a person supportive of her actions refer to her
05:45 5 actions as "the wrong things"?

6 A. Possibly, yes. Again, it depends what you mean by "her
7 actions." If you mean her desire to travel abroad, to travel
8 and join in violent jihad, or the methodology in which she
9 engaged in it -- again, there were -- there were people who
05:45 10 were critical of the way she went about it because of the fact
11 that she advertised herself online and she went about it
12 without employing sufficient logistical subterfuge. So, there
13 were some people who were critical.

14 But I think, in general, the idea any -- again, I
05:45 15 can only go back to what I just said, which is that among
16 people who support the concept of traveling abroad to
17 participate in violent jihad naturally they're going to support
18 others who are traveling abroad to participate in violent
19 jihad, even if they may criticize the methodology that they
05:46 20 employ in terms of getting there or joining an organization or
21 traveling there or, you know, et cetera.

22 But, I mean, theoretically, I have not seen too
23 many hard core jihadis saying her idea of traveling abroad to
24 participate in violent jihad was the wrong thing. The only
05:46 25 possible criticism would be that women, in general, among

05:46 1 Salafi-Jihadis are not, generally speaking, encouraged to
2 directly participate in violent conflict. It's possible
3 someone might have a disagreement with that part; but the rest
4 of it, no, I don't see why not.

05:47 5 Q. Okay. You mentioned this recurring idea of "logistical
6 subterfuge." What are you referring to there?

7 A. I'm referring here to the use of coded language, the use of
8 language ciphers, language substitution. I'm referring to
9 elaborate travel patterns that are unnecessary except if there
05:47 10 is an illicit purpose or illicit methodology being used to
11 travel. I am referring to the use of stolen or fraudulent
12 identification.

13 These are all things that individuals who are
14 engaging in legal activity do not need to engage in; and, thus,
05:47 15 that is an indicator of illicit activity.

16 Q. Do you recall an instance wherein the defendant mentioned
17 one of these logistical maneuvers that you're referring to?

18 A. There are dozens of such instances. They're in my report;
19 but -- I mean, there are dozens of such instances. There are
05:48 20 references to -- first of all, of course, there's the use of
21 the word "elephant" as a language substitution or as a word
22 substitution for "drones." Someone engaging in a --

23 THE COURT: Slow down, please.

24 THE WITNESS: Excuse me, your Honor.

05:48 25 Someone engaging in a philosophical or technical

05:49 1 discussion of drones would not need to refer to them as
2 "elephants" nor refer to the pilots as "riders."

3 Someone traveling to Yemen to join a language
4 institute would fly through London or fly through Egypt or
05:49 5 Dubai. They would not need to take a boat. They certainly
6 would not need to take a boat to Algeria, which is
7 approximately, I believe, 2,000 miles away from Yemen, which
8 is --

9 Q. I'm sorry. You said Algeria is 2,000 miles away from
05:49 10 Yemen?

11 A. It's at least a thousand miles, if not more. It's a very
12 roundabout way of getting to Yemen. I mean, you can get there;
13 but someone traveling with a legitimate purpose would not
14 travel in that direction, certainly not in that method.

05:49 15 Traveling by sea to Yemen is not something that people
16 attending language institutes in Yemen do. I know this because
17 I have friends of mine who have attended those language
18 institutes.

19 When you use multiple e-mail addresses and you
05:49 20 continually change e-mail addresses and you attempt to
21 obfuscate the purpose or the subject of discussion in those
22 e-mails, again, that's not something that ordinary people do in
23 terms of communication.

24 These are all elements of logistical subterfuge;
05:50 25 they're all elements of illicit activity; and they're all

05:50 1 indicators of the presence of a violent homegrown extremist or
2 extremist network.

3 Q. I want to pick up on where you mentioned about the code,
4 code words. From your analysis of this particular case, who
05:50 5 was it that insisted on the formation of that code?

6 A. I believe that both the -- yourself and the CHS both
7 emphasized the need of it. I know the CHS did, but I believe
8 that you were the first person to use the word "elephant" as
9 substitution for the word "drone." So, it was my perception
05:51 10 that both individuals, in the transcripts, both the CHS and
11 yourself were engaging in extensive logistical subterfuge.

12 And it's certainly true that the CHS was
13 encouraging the use of logistical subterfuge because of the
14 fact that, again, engaging in these activities without engaging
05:51 15 in logistical subterfuge would tend to draw law enforcement
16 attention and that -- that would be a bad thing, because some
17 of this stuff is potentially illicit.

18 Q. So, you do agree that the CHS was encouraging logistical
19 subterfuge?

05:51 20 A. I believe he did, yes.

21 Q. Do you recall him giving a reason for that?

22 A. I believe he did; but I can't recall the exact wording, off
23 the top of my head. It may even be cited in my report.

24 Q. At this time I'm going to go to the transcript from
05:52 25 February 3rd.

05:52 1 Okay. I want to start with Page 11, where the
2 CHS is talking. He says, "I want to see if you can do this --
3 referring to this logistical subterfuge. Just because it's
4 getting late I'll just move on to where he says, "You need to
05:53 5 have to find out everything on yourself."

6 "I cannot help you on that."

7 "Because if you can't do this, I think you cannot
8 travel."

9 "It's very simple."

05:53 10 We talked about it, like Mickey Mouse things."

11 Now, at this point there hasn't been a mention of
12 al-Qaeda or any terrorist organization. And at this point the
13 CHS is clearly saying, "If you cannot do -- follow these simple
14 instructions, you cannot travel."

05:54 15 A. Are you saying --

16 Q. At this point --

17 A. Excuse me.

18 Q. At this point what I would like to ask is do you recall any
19 conversation, up to this point, discussing traveling to join
05:54 20 not only al-Qaeda in the Arabian Peninsula or any designated
21 terrorist organization for the purpose of committing acts of
22 terrorism?

23 A. Were there discussions?

24 Q. Were there discussions on this -- this is saying -- this is
05:54 25 a specific -- this -- this -- this is recalling a specific

05:54 1 incident. "If you can't do this, you can't travel," meaning --
2 he's talking to me. So, that means we talked about traveling
3 before.

4 So, I'm asking, in those -- do you recall any
05:54 5 previous conversations where they talked about traveling to
6 fight or join any designated terrorist organization, fight
7 for -- I'm sorry -- or join that organization to commit acts of
8 terrorism?

9 MR. HEENAN: Your Honor, I would like to object at
05:55 10 this point to relevance. And we're pretty far afield outside
11 the scope of direct.

12 THE COURT: Sustained. It's outside the scope, and
13 you need to get on to a different subject. I agree.
14 Sustained. That's why I let him go, subject to an objection.

05:55 15 Go right ahead, sir.

16 THE DEFENDANT: No further questions, your Honor.

17 THE COURT: Thank you.

18 Anything further from this witness?

19 MR. HEENAN: Nothing further, your Honor.

05:55 20 THE COURT: Thank you, sir. You may step down.
21 You're excused. You're free to leave.

22 Call your next witness.

23 MR. HEENAN: Your Honor, I believe we may be prepared
24 to rest, but if I could consult with my --

05:55 25 THE COURT: All right. The government may rest at

05:55 1 this time. We'll see.

2 (Counsel confer)

3 MR. HEENAN: Government rests, your Honor.

4 THE COURT: Government rests its case.

05:56 5 It's now five minutes to 6:00. So, we're not
6 going to begin. So, tomorrow morning, Mr. Bujol, I'm going to
7 be asking if you desire to proceed with a case on behalf of the
8 defense. Keep in mind you're not required to. Okay?

9 THE DEFENDANT: Yes, your Honor.

05:56 10 THE COURT: So, I'll be asking you that. And I have a
11 set of instructions if you elect, you know, to proceed with the
12 case and if you elect to testify yourself.

13 So, keep in mind you're under no obligation to
14 put any evidence on whatsoever. That's -- but if you do, then
05:56 15 certainly you have the absolute right to do so.

16 So, at this time -- we're early tonight. We'll
17 see you tomorrow, ready to resume -- keep in mind, tomorrow, no
18 matter where we are, we end at 1:45. But we're going to go
19 straight through to 1:45 with an extra break in there
05:56 20 somewhere. Okay?

21 See you then.

22 (Proceedings recessed for evening)

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COURT REPORTER'S CERTIFICATION

I certify that the foregoing is a correct transcript from
the record of proceedings in the above-entitled cause.

Date: April 3, 2012

/s/ Cheryll K. Barron

Cheryll K. Barron, CSR, CMR, FCRR
Official Court Reporter